



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

### Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

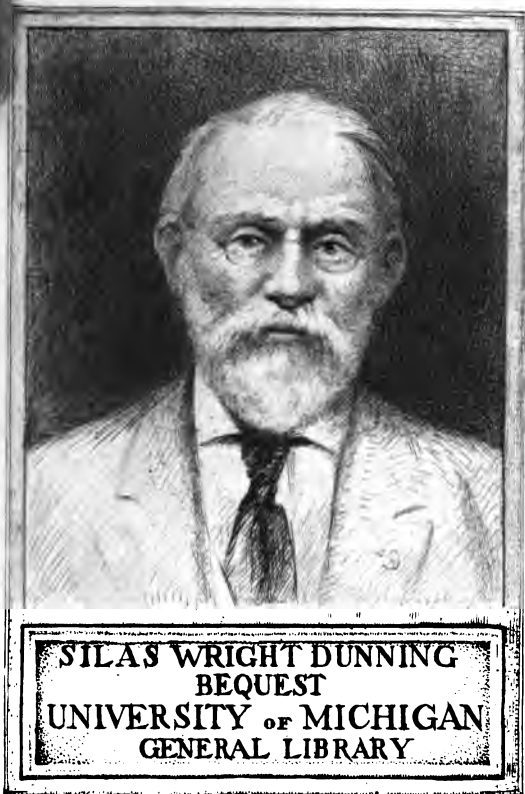
We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

### About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>

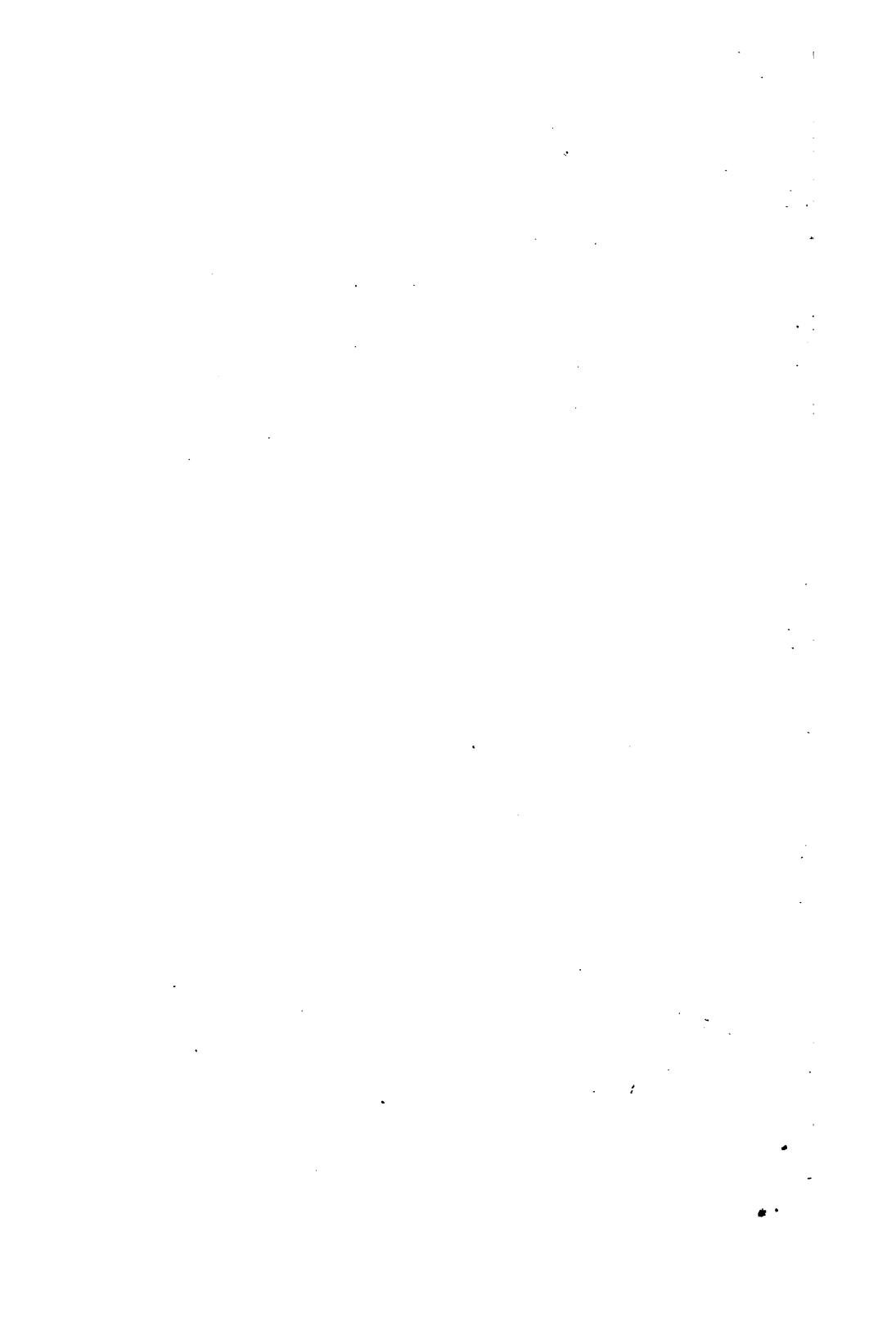




SILAS WRIGHT DUNNING  
BEQUEST  
UNIVERSITY OF MICHIGAN  
GENERAL LIBRARY







*Edw. Chadwick  
Feb. 1826*

THE *Museum*  
HISTORY

OF THE

**Poor Laws :**

WITH

**OBSERVATIONS.**

---

By RICHARD BURN, LL.D.

One of his Majesty's Justices of the Peace for  
the County of WESTMORLAND.

---

L O N D O N :

Printed by H. WOODFALL and W. STRAHAN, Law-  
Printers to the King's most Excellent Majesty,

For A. MILLAR, in the Strand,

M. DCC. LXIV.

HV  
245  
.B96

Dunning  
Harding  
849-50  
11883

T H E

# P R E F A C E.

**T**H E R E is a time, when old things shall become new —

*This maxim is verified in the following historical deduction; wherein are set forth, what laws for the poor were anciently in this kingdom; what the laws are now; and what proposals have been made by ingenious and publick spirited men from time to time, for the amendment of the same.*

*What the author himself hath proposed, he is not so sanguine as to expect that it will have better success, than what others have offered before him. His principal design is to excite attention; and, from a comprehensive view of the subject, to enable every reader to form his own judgment.*

Jan. 15. 1764.

610-13 50223



## CHAPTER THE FIRST.

*Religious houses anciently how far  
liable to maintain the poor.*

**I**T is generally supposed, that before the dissolution of monasteries, the poor were maintained chiefly by the religious houses; and that, by the abolishing of those religious establishments, the poor having become utterly destitute, the statute of the 43 *Eliz.* struck out an intirely new method for their ordering and relief. How far this opinion is well founded, will appear from the sequel of this discourse.

That the religious houses were, by virtue of their institution, obliged to make *some* provision for the poor, is not to be doubted. Out of the revenues of churches appropriated to them, a portion was to be set apart for that purpose.

But before the foundation of monasteries, there were poor to be provided for; and to this end some part of those possessions, which afterwards came into the hands of the monks, had been anciently applied.

Before there were any parishes in England (according to the notion of parishes which we

have at present) the bishop was incumbent of the whole diocese; and he sent out his clergy from his cathedral church, to preach in the several parts of his diocese, as he should see occasion, or as churches became established. The whole tithes of the diocese were then paid to the bishop; and he usually, for the furtherance of religion, divided the same into four parts; one, to be applied to the service of himself and clergy, at his cathedral; another, to the repairs and ornaments of the churches; a third, to the ministers officiating therein; and a fourth, to the poor, and to necessitous travellers.

Afterwards, when the bishops sees began to be endowed with lands and other considerable possessions, the said bishops (in order to encourage the foundation of churches, and to establish a better provision for the residing clergy) did tacitly recede from their quarter part, and were afterwards by canons of the church forbidden to demand it, if they could live without it.

So that then the division came to be into three parts; and every priest was the receiver and distributor thereof, as the bishop had been before; standing obliged to expend one part on the raising, supporting and adorning his church and mansion house; another part, on entertaining strangers and relieving the poor; and to have a third reserved to his own immediate occasions. (*Kennet. Impropr. 14, 15.*)

But this portion was not intended to be the whole maintenance which the poor should receive.

For we find it enjoined in the laws of king Eadgar, that as the priests, so also the people, should

should distribute alms to the poor; that thereby they might render the deity propitious to them, and that thereby the people might be accustomed to the giving of alms: And it was required that the priests, when they distributed their alms, should sing psalms; and the poor, at the same time, pray for their benefactors. (Wilk. 86.)

And by the laws of king Alfred, it was ordained, that the poor should be sustained by parsons and rectors of churches, and also by the parishioners; so that none should die for want of sustenance. (*Mirreour*. 14.)

Afterwards, when churches became appropriated to the monasteries, it was usual to allow one third of the revenues to the vicar officiating in such appropriated church; and the other two thirds were given to the monasteries, and applied as well for maintenance of the several members of such religious houses respectively, as for keeping hospitality, and especially for the relief of the poor.

And by the act of parliament, 15 R. 2. c. 6. it was required, that in every licence to be made in the chancery, of the appropriation of any parish church, it should be expressed, that the diocesan shall ordain, according to the value of such church, a convenient sum of money to be paid and distributed yearly of the fruits and profits thereof, to the poor parishioners, in aid of their living and sustenance for ever.

And by the 4 H. 4. c. 12. In every church so to be appropriated, a secular person was to be ordained vicar perpetual, and conveniently endowed, to inform the people, and keep hospitality there.



And in those acts of endowment of vicarages which are yet extant, we generally find, that the bishop did proportion, so near as could reasonably be estimated, one third part to the vicar, and the other two parts to the religious houses for the purposes aforesaid.

And to the end that they might be the better enabled to answer the said charge, care was taken that they should not be otherwise overburdened.

Thus, by the statute of the 3 Ed. 1. c. 1. it is enacted as follows: Because that abbies and houses of religion have been overcharged and sore grieved, by the resort of great men and other, so that their goods have not been sufficient for themselves, whereby they have been greatly hindred and impoverished, that they cannot maintain themselves, nor such charity as they have been accustomed to do; it is provided, that none shall come to eat or lodge in any house of religion, of *any other's* foundation than of his own, at the costs of the house, unless he be required by the governor of the house before his coming thither.

And that none, at *his own* costs, shall enter and come to lie there, against the will of them that be of the house.

And by this statute the king intendeth not, that the grace of hospitality should be withdrawn from such as need; nor that the founders of such monasteries should over-charge or grieve them by their often coming.

And none shall send to the house or manor of a man of religion, his men, horses, or dogs, to sojourn; nor none shall them receive.

And

And also the sheriffs shall not grieve religious men, by often coming and lodging, neither at their houses nor their manors.

And by the 35 Ed. 1. ft. 1. c. 1. Whereas religious houses were founded, and lands given to them, to the intent that clerks and laymen might be admitted therein, sick and feeble men might be maintained, hospitality, almsgiving, and other charitable deeds might be done, and that in them prayers might be said for the souls of the founders and their heirs; the abbots and other governors of the said houses, and certain aliens their superiors, have laid heavy taxes upon the same, whereby the number of religious persons in the said houses and other servants therein being oppressed, the service of god is diminished, alms being not given to the poor the sick and feeble, the healths of the living and souls of the dead be miserably defrauded, hospitality almsgiving and other godly deeds do cease; it is ordained, that religious persons shall send nothing to their superiors, out of his majesty's kingdom and dominion.

And by the statute of Articuli Cleri, 9 Ed. 2. ft. 1. c. 11. Where it is desired by the prelates, that the king and the great men of the realm do not charge religious houses or spiritual persons for corodies, pensions, or sojourning in religious houses and other places of the church; it is answered, That they shall not be unduly charged.

And by the 2 H. 5. c. 1. Forasmuch as many hospitals, founded as well by the noble kings of this realm, and lords and ladies both spiritual and temporal, as by divers other estates, to the honour of god and of his glorious mother, in aid

6      2 H. 5. c. 1.    Religious houses.    Ch. 1.

and merit of the souls of the said founders, to the which hospitals the said founders have given a great part of their moveable goods, and a great part of their lands and tenements, therewith to sustain impotent men and women, lazars, men out of their wits, and poor women with child, and to nourish, relieve, and refresh other poor people in the same, be now withdrawn and spent in other use, whereby many men and women have died in great misery, for default of aid, living, and succour, to the displeasure of god, and peril of the souls of such disposers; it is ordained, that the ordinaries shall inquire thereof, and upon that due correction and reformation shall be made, according to the laws of holy church.

And so the revenues of those houses of religious or charitable institution, did continue charged until their dissolution. And in one of the acts of dissolution (27 H. 8. c. 23.) it was required, that all persons to whom the king should demise the site and demesnes of any of the dissolved houses, should keep an honest continual house and household there, and for that purpose occupy yearly as much of the demesnes in ploughing and tillage of husbandry, as the said religious had done before; on pain of 6l. 13s. 4d. a month: And the justices in sessions were to inquire thereof. Which order continued until the twenty first year of king James the first, when the said clause was repealed.

But during the time that these institutions continued, there were many other regulations with respect to the poor made from time to time by act of parliament, for the employment of some, for the punishment of others, and for maintenance

nance of the rest. The first of which fall under the denomination of servants, labourers, and artificers; the second, of rogues and vagabonds; and the third, of impotent poor.

---

## CHAPTER THE SECOND.

### *Antient statutes relating to servants, labourers, and artificers.*

**C**Concerning servants, labourers, and artificers; the following statutes have been enacted.

By the 23 Ed. 3. Because great part of the people, and especially of workmen and servants, late died in pestilence; many, seeing the necessity of masters, and great scarcity of servants, will not serve without excessive wages, and some rather willing to beg in idleness than by labour to get their living: it is ordained, that every man and woman, of what condition he be, free or bond, able in body, and within the age of threescore years, not living in merchandize, nor exercising any craft, nor having of his own whereon to live, nor proper land whereon to occupy himself, and not serving any other, if he in convenient service (his estate considered) be required to serve, shall be bounden to serve him which shall so him require; and take only the wages which were accustomed to be given in the

place where he serves, in the twentieth year of the present king, or five or six other common years next before. Provided, that the lords be preferred before other in their bondmen or their land tenants; so that they retain no more than be necessary for them. And if any refuse, he shall, on conviction by two true men, before the sheriff or constable of the place, be committed to gaol till he find surety to serve.

And if any workman or servant, of what estate or condition he be, retained in any man's service, do depart from the said service, without reasonable cause or licence, before the term agreed on, he shall have pain of imprisonment. And none, under the same pain, shall presume to receive or retain any such in his service.

And none shall pay more, or shall demand or receive any more; on pain of forfeiting double; and contracts to the contrary shall be void.

Sadlers, skinners, white tawers, cordwainers, taylors, smiths, carpenters, masons, tilers, shipwrights, carters, and all other artificers and workmen, shall take no more wages than as aforesaid.

And the archbishops and bishops shall cause this to be published, and command the curates and other subdiocesans to compel their parishioners to labour, and also their stipendiary priests of their respective dioceses, which do now excessively take, and will not serve for a competent salary, on pain of suspension and interdiction.

By the 25 Ed. 3. On complaint of the commons, that the servants have no regard to the aforesaid statute, and withdraw themselves to serve

serve great men and other, unless they might have double or treble the said wages; it is ordained, that carters, ploughmen, drivers of the plough, shepherds, swineherds, deies, and all other servants shall take wages as by the said former act.

And they shall serve by the year, or other usual terms, and not by the day.

And none shall pay, in the time of sarching or hay making, but a peny the day. A mower of meadows five pence an acre, or five pence a day. Reapers of corn, in the first week of August, two pence; in the second, three pence; and so till the end of August; without meat, drink, or other courtesy.

And all workmen shall bring openly in their hands to the marchant towns their instruments, and there be hired in a common place and not privy.

Item, that none shall take for the threshing a quarter of wheat or rye above two pence half-peny; quarter of barley, beans, pease, and oats, a peny halfpeny.

And none shall go out of the town where he dwelled in winter, to serve the summer, if he may serve in the same town. Except in the time of harvest.

And servants shall be sworn twice a year, before the lords, stewards, bailiffs, and constables of every town, to obey this ordinance; on pain of being set in the stocks for three days or more, or to be sent to the next gaol till they will justify themselves.

A master carpenter shall take no more than three pence a day; other carpenter, two pence.

A master

A master free mason, four pence a day; other masons, three pence; and their servants, a peny halfpeny. Tilers, three pence; and their knaves a peny halfpeny; and other coverers of fern and straw, three pence; and their knaves, a peny halfpeny. Plaisterers and other workers of mud walls, and their knaves, by the same manner. Without meat or drink. And this, from easter to michaelmas; and from that time leis, according to the discretion of the justices. And they that make carriage by land or by water, shall take no more than they were wont in the twentieth year of the king, and four years before.

And goldsmiths, sadlers, horse smiths, spurriers, tanners, coriers, tawers of leather, raylors, and other workmen, artificers and labourers, and all other servants here not specified, shall be sworn before the justices, to use their crafts as they were wont to do in the said twentieth year and four years before, without refusing the same because of this ordinance.

And servants fleeing from one county to another, because of this ordinance, shall be brought back to the gaol of the county from whence they fled, till the next sessions.

By the 34 Ed. 3. The statute of labourers shall be put in due execution. With this, that lords of towns shall imprison the offenders fifteen days, if they will not justify themselves; and then send them to gaol till they do.

And chief masters of carpenters and masons shall have four pence a day; and the other, three pence, or two pence, as they are worth.

And

And all alliances and covins of masons and carpenters, and congregations, chapters, ordinances, and oaths betwixt them made, shall be void: so that every mason and carpenter shall be compelled by his master whom he serveth to do every work that pertaineth him to do, or of free stone, or of rough stone. And also every carpenter in his degree.

And where labourers and artificers absent themselves in another town or county, if the sheriff return that such person cannot be found, he shall be outlawed. On which, a writ shall issue to every sheriff of England. And when he is brought, he shall be imprisoned till he justify himself, and make gree to the party; and nevertheless, he shall be burnt in the Forehead with an iron formed to the letter F, in token of his Falsity.

And no labourer, servant, or artificer, shall take no manner of wages the festival days.

By the 37 Ed. 3. c. 6. Artificers and handicrafts people, shall hold them every one to one mystery.

By the 12 R. 2. No servant or labourer shall depart, at the end of his term, out of the hundred where he is dwelling, to serve or dwell elsewhere, or by colour to go from thence in pilgrimage, unless he bring a letter patent under the king's seal (to be kept within the county for that purpose) containing the cause of his going, and the time of his return (if he ought to return). If he be found wandring without such letter, he shall be put in the stocks, and kept



kept till he find surety to return to his service, or to serve or labour in the town from whence he came, till he have such letter to depart for a reasonable cause.

But, with such letter, at the end of his term, he may depart to serve elsewhere, so that he be in a certainty with whom.

And none shall receive such person going without a testimonial, nor with testimonial above one night (except for sickness or other reasonable cause); on pain to be limited by the justices.

And as well artificers and people of mystery, as servants and apprentices, which be of no great avoird, and of which craft or mystery a man hath no great need in harvest time, shall be compelled to serve in the harvest, to cut, gather, and bring in the corn.

And because the wages following have not been put in certain before this time, it is accorded and assented, that the bailiff for husbandry shall take by the year 13s. 4d. and his cloathing once a year, at the most. The master hine 10s. Carter 10s. Shepherd 10s. Oxherd 6s. 8d. Cowherd 6s. 8d. Swineherd 6s. A woman labourer 6s. A dey 6s. A driver of the plough 7s.

And he or she which use to labour at the plough and cart, or other labour and service of husbandry, till they be of the age of 12 years, from thenceforth shall abide at the same labour, without being put to any mystery or handicraft: and any covenant of apprenticeship to the contrary shall be void.

By

By the 13 R. 2. c. 8. Forasmuch as the price of corn and victuals cannot be put in certain; the justices shall make proclamation, after the dearth of victuals, how much every mason, carpenter, tiler, and other craftsmen, workmen, and labourers by the day, as well in harvest as in other times of the year, shall take by the day, with or without meat and drink.

By the 4 H. 4. c. 14. No labourer shall be retained by the week; nor shall take any hire for the holidays, nor for the evens of feasts where they do not labour but till the hour of noon, but only for the half day.

By the 6 H. 6. c. 3. The justices shall make proclamation once a year, how much every servant of husbandry shall take for his service by the year then next following; and twice a year how much every artificer and workman shall take by the day, and by the week, with or without meat and drink, as well in August as in other times of the year. And every proclamation so to be made, shall be holden as a thing ordained by statute.

By the 23 H. 6. c. 13. A servant, purposing to depart, shall, at the midst of his term or before, give warning; that his master may provide another. Otherwise, he shall serve for the next year.

And the wages of a bailiff of husbandry shall not exceed 23s 4d a year, and cloathing of the price of 5s, with meat and drink; chief hind,  
carter,

carter, or chief shepherd 20s; cloathing 4s; common servant of husbandry 15s, cloathing 40d; woman servant 10s, cloathing 4s; infant under fourteen 6s, cloathing 3s. And such as deserve less, shall take less. Free mason or master carpenter not above 4d a day, without meat and drink  $5\frac{1}{2}$ d. Master tiler or slater, rough mason and mean carpenter and other artificers concerning building 3d a day, without meat and drink  $4\frac{1}{2}$ d. Every other labourer 2d a day, without meat and drink  $3\frac{1}{2}$ d. After michaelmas, to abate proportionably. In time of harvest, a mower 4d a day, without meat and drink 6d. Reaper or carter 3d a day, without meat and drink 5d. Woman labourer and other labourers 2d a day, without meat and drink  $4\frac{1}{2}$ d.

By the 11 H. 7. c. 22. There is a like rate of wages, only with a little advance to several of them; as for instance, a free mason, master carpenter, rough mason, bricklayer, master tiler, plumber, glazier, carver, joiner, shall be allowed, from easter to michaelmas, to take 6d a day without meat and drink, or with meat and drink 4d. From michaelmas to easter, to abate 1d.

And a master mason or carpenter, having under him six men, shall be allowed to take 1rd a day extraordinary.

And no artificer shall depart before his work be finished, if his employer so long will have him, and pay his wages; on pain of imprisonment for a month, and forfeiture of 20s. (Unless it be for the king's service.)

And every artificer and labourer, between the middle of March and the middle of September, shall be at work before five in the morning, and continue till after seven at night. And shall be allowed half an hour for breakfast; an hour and a half for dinner, in sleeping time; out of sleeping time shall have one hour for his dinner, and half an hour for his noon meat. From the middle of September to the middle of March, he shall be at work from the spring of the day until night. The season for sleeping to be, from the middle of May to the middle of August.

By the 6 H. 8. c. 3. Several of the aforesaid regulations are repeated, with some few alterations; and the wages of shipwrights, particularly, are rated after the following proportions: A master ship carpenter, taking the charge of the work, having men under him, 5 d a day, in the summer season, with meat and drink; another ship carpenter, called a hewer, 4 d; an able clincher, 3 d; holder, 2 d; master calker, 4 d; mean calker, 3 d; a calker labouring by the tide, for every tide 4 d.

By the 27 H. 8. c. 25. Servants departing from their service, by licence, will, death, or exclusion of their master, having letters of their master, or in case of his death other sufficient testimony, shall not be taken as vagrants, for one month after; nor then, if they have entred into any service, or be otherwise in labour.

Then, finally, came the statute of the 5 Eliz. c. 4. which brought together all the former statutes,

tutes, and re-enacted what was useful therein; with some few alterations. The preamble sets forth the use and design of such an act, and the whole act is a very good example of what may be done in like cases. It begins,———Altho' there remain and stand in force presently, a great number of acts and statutes concerning the retaining, departing, wages, and orders, of apprentices, servants, and labourers, as well in husbandry, as in divers other arts, misteries, and occupations; yet partly for the imperfection and contrariety that is found and doth appear in sundry of the said laws, and for the variety and number of them; and chiefly for that the wages and allowances limited and rated in many of the said statutes, are in divers places too small, and not answerable to this time, respecting the advancement of prices of all things belonging to the said servants and labourers; the said laws cannot conveniently, without the great grief and burden of the poor labourer and hired man, be put in good and due execution: And as the said several acts and statutes were, at the time of the making of them, thought to be very good and beneficial for the commonwealth of this realm (as divers of them yet are): So if the substance of as many of the said laws as are meet to be continued, shall be digested and reduced into one sole law and statute, and in the same an uniform order prescribed and limited, concerning the wages and other orders for apprentices, servants, and labourers, there is good hope that it will come to pass, that the same law (being duly executed) should banish idleness, advance husbandry, and yield unto the hired person, both in the time of  
scarcity

scarcity, and in the time of plenty, a convenient proportion of wages; — and then enacts, that the said former laws shall be repealed; and proceeds to lay the whole together in one uniform and consistent act.

\* \* \* \* \*

SO much, for the preventing of IDLENESS. To which end it may be apposite also to insert briefly the statutes which were made against unlawful games. As,

By the 12 R. 2. c. 6. Servants and artificers shall leave all playing at tennis, or football, and other games called coites, dice, casting of the stone, kailles, and other such importune games; and shall bear no bucklers, swords, nor daggers; but they shall have bows and arrows, and use the same on sundays and holidays.

By the 17 Ed. 4. c. 3. Whereás by the laws of this realm no person should use any unlawful games, but that every person strong and able of body should use his bow; contrary to which laws many new imagined games are daily used, as well by persons of good reputation, as of small behaviour; it is ordained, that none shall use any of the games called closh, kailles, halfbowle, hand-in and hand-out, and quekborde; on pain of 10l and two years imprisonment: And none shall suffer the same in his house, garden, or other place; on pain of 20l and imprisonment for three years.

By the 11 H. 7. c. 2. No apprentice, servant, labourer, or artificer shall play at tables but only

C

for

for meat and drink; nor at the tennis, clafh, dice, cards, bowls, nor any other unlawful game, out of chriftmas; and in chriftmas, only in the dwelling houfe of his mafter, or where his mafter is prefent: on pain of being fet in the ftocks for one day.

In like manner, by the 19 H. 7. c. 12. No apprentice, or fervant at hufhandry, labourer, nor fervant artificer, fhall play at tables; nor at tennis, clafh, dice, cards, bowls, nor other unlawful games out of the twelve days of chriftmas, and then only in their mafter's houfe, or where he abideth: on like pain as aforefaid.

By the 27 H. 8. c. 25. No perfon fhall keep any open playing houfe, or place for common bowling, dicing, carding, clafh, tennis, or other unlawful game, taking money for the fame; on pain of five marks a month.

All which regulations were introductory to the ftatute of the 33 H. 8. c. 9. to the like purpofe now in force.

\* \* \* \* \*

IT may be alfo curious to obferve what reftrictions they were fubject to, with refpect to their cloathing and apparel. It hath been already fet forth, at what price by the year their cloathing fhould be eftimated. Other particulars are as follows.

By the 37 Ed. 3. c. 9. it is ordained, that people of handicraft and yeomen fhall take nor wear cloth of a higher price for their vefture or hofing, than within 40s the whole cloth; nor ftone, nor cloth of filk nor of filver, nor girdle, knife,

knife, button, ring, garter, nor owche, riban, chains, nor no such other things of gold or silver; nor no manner of apparel embrowdered, aimeled, nor of silk by no way. And that their wives, daughters, and children, wear no vail of silk, but only of yarn made within the realm, nor no manner of fur, nor of budge, but only lamb, conie, cattle, and foxe.

By the 37 Ed. 3. c. 14. Carters, ploughmen, drivers of the plough, oxherds, cowherds, shepherds, deyars, and all other keepers of beasts, threshers of corn, and all manner of people of the estate of a groom, attending to husbandry, and all other people not having 40 s of goods, shall wear no cloth but blanket, and russet wool of 12 d, and shall wear girdles of linen according to their estate.

By the 3 Ed. 4. c. 5. No person under 40 l a year, shall use or wear in aray for his body, any bolsters nor stuffing of wool, cotten, nor cadas, nor any stuffing in his doublet, but only lining according to the same. And no person shall wear any gown, jacket, or coat, unless it be of such length that the same may cover his privy members and buttocks; nor shoes for boots having pikes passing the length of two inches. And no servant, or labourer, or artificer, shall wear any cloth above 2 s the yard; nor suffer any of their wives to wear any coverchieffes, whereof the price of the plite shall passe 12 d; nor any girdle garnished with silver. But this shall not extend to minstrels, nor players in their interludes; nor to persons as for wearing of any purses, broches, or crowns for caps of children. — And transgressing in any of the above particulars



particulars is expressed to be, to the great displeasure of almighty god.

By the 4 Ed. 4. c. 7. No cordwainer or cobbler shall make any shoes, galoches, or huseaus, with any pike or poleyn, that shall pass the length of two inches.

By the 4 Ed. 4. c. 9. None shall make patens nor clogs, for gentiles or other, of aspe fit for shafts.

By the 22 Ed. 4. c. 1. No person, under the estate of a lord, shall wear any gown or mantell, unless it be of such length, that, he being upright, it shall cover his privy members and buttocks.

By the 1 H. 8. c. 14. No serving man, under the degree of a gentleman, shall wear any gown, or cote, or such like apparel, of more cloth than two broad yards and a half in a short gown, and three broad yards in a long gown. And no serving man, waiting upon his master under the degree of a gentleman, shall use any garded hose, or any cloth in his hose above 20 d the yard. And no man, under the degree of a knight, shall wear any garded or pinched shirt, or pinched partlet of linen cloth. Nor no servant of husbandry, shepherd, or labourer, shall wear any hose, the price of the cloth whereof passeth 10 d a yard.

By the 6 H. 8. c. 1. No man under the degree of a knight, except spiritual men, serjeants at-law, or graduates in the universities, shall use more cloth in a long gown than four broad yards, and in a riding gown or coat above three broad yards. And no man, under the degree of  
4 a knight

a knight, shall wear any chain of gold, or collar of gold, any gold about his neck, or bracelets of gold.

And no man, under the degree of a gentleman, shall wear any silk points, or any points in any of his apparel, nor aglets of gold or silver, or button, or broches of gold or silver. And no man, under the degree of a knight, shall wear any garded or pinched shirt, or pinched partlet of linen cloth, or plain shirt garnished, or made with silk or gold or silver.

By the 7 H. 8. c. 7. There are the like regulations, with some small variation,

By the 24 H. 8. c. 13. No man, not having 40l a year, shall wear any chain of gold, of less weight than ten ounces of troy weight of fine gold. And no serving man, or other under 40s a year, shall wear any shirt or shirt band, under or upper cap, coif, bonnet, or hat, garnished or wrought with silk, gold, or silver. Nevertheless it shall be lawful for him to wear a silk ribband for his bonnet, and also the cognisance or badge of his lord or master, and a horn tipped or fiewed with silver gilt or ungilt. Also they may wear on their bonnets all such games of silver gilt or ungilt, as they may win by wrestling, shooting, running, leaping, or casting of the bar. And also masters of ships or mariners may wear whistles of silver, with the chain of silver to hang the same upon.

Finally, by the 13 El. c. 19. Every person above the age of six years (except maidens, ladies, and gentlewomen; and lords, knights, and gentlemen of 20 marks a year) shall wear

upon the sabbath and holiday, upon their head, one cap of wool knit, thicked, and dressed in England; on pain of 3 s 4 d a day.

---

## CHAPTER THE THIRD.

### Vagrants.

**BY** the 23 Ed. 3. Because that many valiant beggars, as long as they may live of begging, do refuse to labour, giving themselves to idleness and vice, and sometimes to theft and other abominations; it is ordained, that none, upon pain of imprisonment, shall, under the colour of pity or alms, give any thing to such which may labour, or presume to favour them towards their desires; so that thereby they may be compelled to labour for their necessary living.

By the 7 R. 2. Justices of assize, justices of the peace, and the sheriff in every county, shall have power to inquire of persons wandring from place to place; and as well the said justices and sheriff, as the mayors, bailiffs, constables, and other chief officers of towns and places where such vagabonds shall come, shall have power to examine them diligently, and compel them to find surety for their good bearing, by sufficient mainpernors, who may be distrainable if any default be found in such vagabonds; and if they  
cannot

cannot find such surety, to commit them to the next gaol, till the coming of the justices assigned for deliverance of the gaols, who shall do to the said vagabonds as to them shall seem meet by the law.

By the 12 R. 2, Of every person that goeth begging, and is able to serve or labour, it shall be done as of him that departeth out of the hundred or other place without letter testimonial, (that is, he shall be put in the stocks, and kept till he hath found surety to return to serve or labour in the town from whence he came.)

Except people of religion and heremites, having letters testimonial of their ordinaries.

And of all them that go in pilgrimage as beggars, and be able to travel, it shall be done as of the said servants and labourers, if they have no letters testimonial of their pilgrimage under the king's seal, which for this intent shall be assigned and delivered to the keeping of some good man of the hundred, city, or borough, at the discretion of the justices.

And the scholars of the universities that go so begging, shall have letters testimonial of their chancellor, upon the same pain.

And they that feign themselves men travelled out of the realm, and there to be imprisoned, shall bring letters testimonial of the captain where they were abiding, or of the mayors or bailiffs where they arrived. And the same mayors and bailiffs shall inquire of such people, where, and with whom they have dwelled, and in what place their dwelling is in England. And the same mayors and bailiffs shall make them letters patents

under the seal of their office, testifying the day of their arrival, and also witnessing where they have been (as they have said). And they shall cause them to swear, that they shall hold them right way towards their country (except they have letters patents under the king's great seal to do otherwise). And if any such travelled man be found without such letter, it shall be done of him as of the said servants and labourers. And also this ordinance shall be intended of men travelled, that go begging thro' the country after their arrival.

By the 1 H. 5. c. 8. All Irish clerks, beggars, called chamberdekens, shall be voided out of the realm.

By the 11 H. 7. c. 2. The king our sovereign lord, considering the great charges that should grow to his subjects for bringing of vacabonds to the gaols according to the statute of the 7 R. 2. and the long abiding of them therein, where by likelihood many of them should lose their lives; in moderating of the said statute, his highness will, by the authority of this present parliament, it be ordained and enacted, that where such misdoers should be by examination committed to gaol, there to remain as is afore-said, the constables and other officers shall take all such vacabonds, idle and suspect persons, living suspiciously, and them so taken shall set in stocks, there to remain by the space of three days and three nights, and there to have none other sustenance but bread and water; and after the said three days and three nights, to be had out

out and set at large, and then to be commanded to avoid the town. And if eftsoons he be taken in such default in the same town or township; then to be set likewise in the stocks by the space of six days, with like diet as is afore rehearsed. And if any person give any other meat or drink to the said misdoers, being in stocks in form afore said, or the same prisoners favour in their misdoing, that then they forfeit for every time so doing 12d.

And no man shall be excused by that he is a clerk of one university or of other, without he shew the letters of the chancellor of the university from whence he saith he cometh.

Nor none other calling himself a soldier, shipman, or travelling man; without he bring a letter from his captain, or from the town where he landed; and that he then be commanded to go the strait highway into his country.

And if any officer afore rehearsed, execute not the premisses as is above said, of every vacabond, heremit, or beggar able to labour, or clerk, pilgrim, or shipman, as oft as any such cometh in his sight, or that he hath thereof knowledge within the town where he hath authority, rule, and governance, as often as any such of the said misdoers abiding there by the space of a day departeth unexamined and unpunished, for every misdoer so departed he to leese 12d.

Provided, that diminution of punishment of vacabonds and beggars afore said, may and shall be had for women great with child, and persons in extreme sickness, by him that hath authority to do the said punishments, this act notwithstanding.

By

By the 19 H. 7. c. 12. Instead of being set in the stocks for three days and three nights, as by the last act; they shall be set there by the space of one day and one night; and then to avoid the town or place where they were taken, into such city, town, place, or hundred where they were born, or else to the place where they last dwelled or made their abode by the space of three years; and that, as hastily as they conveniently may; and there to remain and abide. And if estfoons they be taken in such default in the same town or township, then to be set likewise in stocks by the space of three days and three nights, with like diet as is aforesaid. And if any person give any other meat or drink to the said misdoers so being in stocks in form aforesaid, or the said prisoners favour in their misdoing, or them receive or harbour over one night, that then they forfeit for every time so doing, 12 d.

And that no man be excused by that he is a clerk of an university from whence he saith he cometh, without a letter of the vicechancellor.

Nor nohe calling himself a soldier, shipman, or travelling man, without he bring a letter from his captain, or from the town where he landed, and that he then be commanded to go the straight highway into his country. And if he depart not according to such commandment, then to be taken and punished as a vagabond.

Provided always, that diminution of punishment of vagabonds and beggars aforesaid, may and shall be had for women great with child, and men and women in great sickness, and persons being impotent, and above the age of sixty years;

years; by the discretion of him that hath authority to do the said punishment, this act notwithstanding.

And the justices or two of them within their shires, and mayors within their cities, towns, and boroughs, shall have power to make four times in the year, that is to say, every quarter once, or oftner, as by their discretion shall be thought necessary, throughout all their shire, a due and diligent secret search; and if they find any of the said misruled persons, the said misruled persons so found shall have like punishment and correction as is afore said.

By the 22 H. 8. c. 12. If any person, being whole and mighty in body, and able to labour, be taken in begging, or be vagrant and can give no reckoning how he lawfully gets his living; the constable may arrest and bring him to a justice, or to the high constable; who shall, respectively, by their discretions, cause every such idle person to be had to the next market town, or other place where they shall think most convenient, and there to be tied to the end of a cart naked, and to be beaten with whips throughout the same market town or other place, till his body be bloody by reason of such whipping. After which, he shall by such justice or high constable be enjoined upon his oath, to return forthwith without delay, in the next and straight way, to the place where he was born, or where he last dwelled by the space of three years, and there to put himself to labour as a true man ought to do;

And



And after that done, he shall have a letter sealed with the seal of the hundred, city, borough, town, liberty, or franchise, witnessing that he hath been punished according to this statute, and containing the day and place of his punishment, and the place whereunto he is limited to go, and by what time he is limited to come thither; within which time he may lawfully beg by the way, and otherwise not.

And if he do not accomplish the order to him appointed by the said letter; then to be eftsoons taken and whipped; and so, as often as any default shall be found in him contrary to the order of this statute, in every place to be taken and whipped, till he be repaired where he was born, or where he last dwelled by the space of three years, and there to put his body to labour for his living, or otherwise truly get his living without begging, as long as he is able so to do.

And if the constables and inhabitants of any town or parish do not take and punish such strong beggar as aforesaid; then the township or parish where such default shall be, shall forfeit for every such strong beggar that shall happen to beg within their district, not being taken and ordered as is above limited, 6s 8d.

And scholars of the universities of Oxford and Cambridge, that go about begging, not being authorized under the seal of the said universities, by the commissary, chancellor, or vicechancellor of the same; and all shipmen, pretending losses of their ships and goods of the sea, going about the country begging, without sufficient authority witnessing the same; shall be punished and ordered as is above rehearsed of strong beggars.

And

And all proctors and pardoners, going about without sufficient authority; and all other idle persons going about, some of them using divers and subtil crafty and unlawful games and plays, and some of them feigning themselves to have knowledge in physick, physnomie, palmestry, or other crafty sciences, whereby they bear the people in hand that they can tell their destinies, deceases, and fortunes, and such other like fantastical imaginations, to the great deceit of the king's subjects; shall, on conviction before two justices, be punished by whipping at two days together in manner aforesaid. For the second offence, such person to be scourged two days, and the third day to be put upon the pillory from nine of the clock till eleven before noon of the same day, and to have one of his ears cut off. And if he offend the third time, to have like punishment with whipping, standing on the pillory, and to have his other ear cut off.

And if any person give any harbour, money, or lodging to any strong beggars ordering themselves contrary to this statute; he shall make such fine to the king, as the justices in sessions shall appoint.

And every letter that shall be delivered to such vagabond, after he hath been whipped, shall be made in this form:

Kent. ff. J. S. whipped for a vagrant strong beggar, at Dale in the said county, according to the law, the 15th day of July, in the 23d year of king Henry the eighth, was assigned to pass forthwith and directly from thence to Sale in the county of Middlesex, where he saith he was born,  
(or,

(or, where he last dwelled by the term of three years;) and he is limited to be there within 14 days next ensuing, at his peril. In witness whereof the seal of the limit of the said place of his punishment hereunto is set. By me A. B. one of the justices of the peace for the said county of Kent.

Provided always, that any person delivered out of gaol for suspicion of felony by proclamation, or acquit of any felony, and having no friend to pay his fees, may have liberty to beg for his fees by licence of his keeper for six weeks, and by letter from the clerk of the peace.

By the 27 H. 8. c. 25. The mayors, sheriffs, bailiffs, constables, householders, and all other head officers of every city, shire, town, hundred, parish, or hamlet, at the repair and coming thither of such sturdy vagabond, shall cause and compel him to be set and kept to continual labour, so as to get thereby their own living.

And every person, being whipped or sent to his country in form aforesaid, at the end of every ten miles shall repair to the constable of any parish being directly in his way towards the county and place whereunto he is so appointed; and, upon sight of his letters given to him at the time of his whipping and sending of him into the same his country, every of the said constables and other the king's subjects shall and may furnish him with competent meat, drink, and lodging, for one night only, or for one meal: and so he shall continue his daily journey of ten miles,  
until

until such time as he shall come unto the hundred and place whereunto he is assigned to go.

And all idle persons; rufflers, calling themselves servingmen, having no masters, shall be ordered to all intents as sturdy vagabonds.

And privy searches shall be ordered as before, in such time of the night and day as shall be thought convenient, to the intent that all rufflers, sturdy vagabonds, and valiant beggars, and other suspected persons, may be by such means apprehended. And all persons shall aid and assist, at the commandment of the justices and other head officers aforesaid, in making the said searches, on pain of being fined by the discretion of the justices in sessions.

And if any of the said rufflers, sturdy vagabonds, and valiant beggars, after having been once apprehended, whipt, and sent, shall wander, loiter, or idly use themselves and play the vagabonds, and absent themselves from such labour and occasion as they shall be appointed unto in any such place whereunto they have been sent, and shall be again apprehended; every such person shall be eftsoons not only whipped again, and sent to the place whereunto he was first appointed, but also shall have the upper part of the gristle of his right ear clean cut off. And if he shall again offend, he shall be committed to gaol till the next sessions; and being there convicted upon indictment, he shall have judgment to suffer pains and execution of death, as a felon, and as an enemy of the commonwealth.

Provided always, that inasmuch as friers mendicants have nothing to live upon, but only by the charity and alms of christian people; therefore

fore nothing in this act shall be prejudicial to any person for giving of them, in general or particular, any manner of alms in money, victual, or other thing; nor also to them, or any of them, for being or remaining out of the places where they were born, or had their last habitation, or for passing abroad to gather the alms and charity of christian people, or for continuance in their religion as they have been accustomed to do.

By the 1 Ed. 6. c. 3. Whosoever man or woman, being not lame, impotent, or so aged or diseased that he or she cannot work, not having whereon to live, shall either like a serving man wanting a master, or like a beggar, or after any such other sort, be lurking in any house, or loitering, or idle wandring by the highway side, or in streets, cities, towns, or villages, not applying themselves to some honest labour, and so continuing for three days; or running away from their work; every such person shall be taken for a vagabond: And any person may take, and bring him to the two next justices; who shall, on conviction by confession or two witnesses, cause the same loiterer to be marked with a hot iron in the breast with the letter V, and adjudge him to the person bringing him, to be his slave for two years, giving him only bread and water, or small drink, and such refuse of meat as he shall think fit; and causing him to work, by beating, chaining, or otherwise, in such work and labour (how vile soever it be) as he shall put him unto. And if he shall run away, his master may retake him, and punish him by  
chains

chains or beating as aforesaid; and on conviction of such offence before two justices, they shall cause him to be marked on the forehead, or the ball of the cheek, with an hot iron, with the letter S, and adjudge him to be the said master's slave for ever. And if he shall again run away; he shall be taken as a felon, and suffer pains of death as other felons ought to do.

And if any will take the child of a vagabond, above the age of five years and under fourteen; the justices shall adjudge such child to be servant or apprentice to the said person, till the age of 24 of the male, and 20 of the female. And if such child shall run away; he or she shall be adjudged to be a slave in all respects as aforesaid.

And the said slaves may be sold, or devised by will, as other goods and chattels.

And if any such slaves shall wound their master, in resisting their correction; or when they be manumitted and set again free, or otherwise in the time of their service, shall conspire with any other, or by themselves shall go about to kill, maim, wound, or beat their said master, or to burn his house, barn, or corn, so that their intent come to an act tending to the effect, as lying in wait with weapon, or any such like; they shall be adjudged felons, and suffer pains of death as in case of felony.

If no person will take such vagabond; yet the justice shall cause him to be so marked on the breast with the letter V, and shall inquire of him the town, city, or village where he was born; and then give him a writing in parchment, sealed with his seal, of the form which here ensueth:

A. B. justice of the peace in the county of S. to the constable of the village of C. greeting. According to a most godly statute, made in the first year of the reign of our sovereign lord king Edward the sixth; We have taken this bearer J. K. vagrantly, and to the evil example of others, without master, service, or labour, whereby to get his living, going loitering idly about. And because the same hath he was born in C. in the county of S. whereof you are the constable, we have sent him to you to be ordered, according to the purport and effect of the same statute.

And with this writing, the said loiterer shall be delivered to the constable of the place where he was taken, and by him be delivered to the next constable, and so from constable to constable, till he be brought to the place where he said he was born; and there to be kept and ordered as a slave, in like manner as is above expressed.

And the same order shall be had of all vagrant persons, born in any other nation or country, as is before expressed of English idle persons (marking in the breast or face only excepted); that is, to be had to the next port, and there to be kept of the inhabitants in convenient labour till he may be conveyed over; and then at the costs of the inhabitants of the said port, to be conveyed over into their countries.

And it shall be lawful to any person to whom any slave shall be adjudged as aforesaid, to put a ring of iron about his neck, arm, or leg, for the more surety of the keeping of him. And if any person shall help him to take it off, he shall forfeit 10l.

Provided

Provided always, that it shall be lawful to the lord chancellor, or lord keeper, to grant commission under the great seal, to persons that have had their houses or barns burnt, or such losses, to gather charity as heretofore.

By the 3 & 4 Ed. 6. c. 16. Common labourers of husbandry, able in body, using loitering, and refusing to work for reasonable wages, shall be punished as strong and mighty vagabonds.

And every vagabond and beggar, being born in any other nation or country, shall be conveyed from place to place, or to the place, or marches next adjoining to his native country, or to the next port (if there be a sea between), there to be kept of the inhabitants of the said port till they may be conveyed over, and then at the costs of the inhabitants of the said port, if themselves shall not have wherewith, to be conveyed over into their native countries.

By the 5 & 6 Ed. 6. c. 21. No person commonly called pedlar, tinker, or petty chapman, shall go out of the place where he dwells, and sell pins, points, laces, gloves, knives, glasses, tapes, or any such kind of ware, or gather conie skins, or such like thing, or exercise the trade of a tinker, but only such as are licensed by two justices within such circuit as they shall assign: on pain of imprisonment for 14 days.

By the 14 El. c. 5. All rogues, vagabonds, and sturdy beggars, shall upon their apprehension be brought before a justice, and by him be committed



mitted to the common gaol until the next sessions or the next assizes.

And the constable, for conveying him by the command of such justice, shall have reasonable charges allowed to him by the justices or judge of assize, to be paid by the parish where such rogue was apprehended.

At which sessions or assizes, if such person be duly convicted of his roguish or vagabond's trade of life, he shall be grievously whipped, and burnt thro' the gristle of the right ear with a hot iron of the compass of an inch about; unless some person will take him into his service for a year, and enter into recognizance to keep him the year and bring him to the sessions at the year's end. For the second offence, being of the age of 18 years or above, he shall be adjudged a felon, unless some person will take him for two years in like manner. And for the third offence, he shall be adjudged guilty of felony without benefit of clergy.

And for the full expressing what persons shall be intended to be rogues, vagabonds, and sturdy beggars, it is enacted, that all persons that be, or utter themselves to be, proctors or procurators, going about without authority from the queen;—and all other idle persons going about, using subtil, crafty, and unlawful games or plays;—and some of them feigning themselves to have knowledge in phisnomie, palmestrie, or other abused sciences, whereby they bear the people in hand that they can tell their destinies, deaths, and fortunes, and such other like fantastical imaginations;—and all persons, being whole

whole and mighty in body, and able to labour, having not land, or master, nor using any lawful employment, and can give no reckoning how they lawfully get their living;—and all fencers, bearwards, common players in interludes, and minstrels, not belonging to any baron of this realm or person of greater degree, all juglers, pedlars, tinkers, and petty chapmen (the said fencers, bearwards, players, minstrels, juglers, pedlars, tinkers, and petty chapmen, wandering abroad, and not having licence of two justices);—and all common labourers, able in body, loitering, and refusing to work for reasonable wages;—all counterfeiter's of licences, passports, and all users of the same;—all scholars of the universities of Oxford or Cambridge, that go about begging, not being authorized under the seal of the said universities, by the commissary, chancellor, or vicechancellor of the same;—all shipmen, pretending losses by sea;—all persons delivered out of gaols, that beg for their fees, or travel to their countries or friends, not having licence of two justices;—shall be deemed rogues, vagabonds, and sturdy beggars.

Provided, that shipmen, and soldiers, having licence of the next two justices to the place where they labored, or first entered into this realm, shall be allowed to pass according to the purport of their licence.

But no licence recited in this statute, shall be of any force, but only in the shire whereof the granters shall be justices. Wherefore, if the party licensed will have any further passage without danger of the law, it shall be behoveful for him to procure in every other shire where he intends

tends to pass, one other licence from two justices of the said shire, and so from shire to shire to the end of his journey.

Provided also, that this act shall not extend to cockers, or harvest folks, that travel for harvest work, corn or hay.

Nor to any that happeneth to be robbed by the way.

Nor to any serving man of honest behaviour, turned from his master, or whose master is dead, for six months after such turning away or death, so as he hath a testimonial from his master declaring such turning away, or from two justices declaring such death.

Provided also, that nothing herein shall extend to make void any safe conduct, passport, or licence, by military officers, to any soldier passing about his lawful business.

Irish and Mannish vagabonds, shall be sent back at the charge of the county where they landed.

And whereas by reason of this act, the common gaols of every shire are like to be greatly pestered with more number of prisoners than heretofore hath been, for that the said vagabonds and other lewd persons before recited shall upon their apprehension be committed to the said gaols; it is enacted, that the justices in sessions shall assess within every parish reasonable sums towards the relief of the said prisoners. (Which clause is yet in force, and is the foundation of the present assessment for the relief of prisoners in the gaol.)

Finally,

Finally, it is provided, that nothing in this act shall extend to disanest, prejudice, or hinder John Dutton of Dutton in the county of Chester, esquire, his heirs or assigns, concerning any liberty, privilege, preheminance, authority, jurisdiction or inheritance, which the said John Dutton now lawfully useth or hath, or lawfully may or ought to use, within the county of Chester, and county of the city of Chester, by reason of any ancient charters of any kings of this land, or by reason of any prescription, or other lawful usage or title whatsoever.

By the 18 El. c. 3. Concerning rogues, inasmuch as by the last act they are to be conveyed to gaol by the constable of the parish where they were apprehended, at the charges of such parish; and, for the avoiding of such charges, many are suffered to pass unapprehended; it is enacted, that from henceforth every such rogue apprehended, shall be conveyed by the constable of the parish where he was apprehended, only to the constable of the next township or parish in the next hundred, and so from hundred to hundred till they come to the gaol.

And houses of correction shall be provided in every county, by order of the justices in sessions, (of the inhabitants to be taxed and levied,) and also stock and implements, for setting on work and punishing all such as shall be taken as rogues, or once punished as rogues, and by reason of the uncertainty of their birth, or of their dwelling by the space of three years, ought to be abiding and kept within the same county.

By the 39 El. c. 3. Every soldier being discharged of his service, or otherwise lawfully licensed to pass into his country, and not having wherewith to relieve himself in his travels homewards; and every seafaring man landing from sea, not having wherewith to relieve himself in his travels homewards; having a testimonial under the hand of a justice of or near the place where he landed or was discharged, setting down therein the time and place when and where he landed or was discharged, and the place of his dwelling or birth unto which he is to pass, and a convenient time therein to be limited for his passage, may, in the usual ways, directly to the place unto which he is to pass, and within the time in such his testimonial limited for his passage, ask and receive such relief as shall be necessary in and for his passage.

By the 39 El. c. 4. (which continued in force till the 12th year of queen Anne) like power is given as by the act of the 18 El. c. 3. to erect houses of correction, and to make order for the rule and governance thereof.

And further it is enacted, that all persons calling themselves scholars, going about begging; all seafaring men, pretending losses of their ships or goods on the sea, going about the country begging; all idle persons going about either begging or using any subtil craft or unlawful games and plays, or feigning themselves to have knowledge in physiognomie, palmestrie, or other like crafty science, or pretending that they can tell destinies, fortunes, or such other like fantastical

stical imaginations; all persons that be, or utter themselves to be, proctors, procurers, patent gatherers, or collectors for gaols, prisons, or hospitals; all fencers, bearwards, common players of interludes, and minstrels, wandring abroad, (other than players of interludes belonging to any baron of this realm, or person of greater degree;) all jugglers, tinkers, pedlars, and petty chapmen, wandring abroad; all wandring persons and common labourers, being persons able in body, using loitering, refusing to work for common wages, not having living otherwise to maintain themselves; all persons delivered out of gaols that beg for their fees, or otherwise do travel begging; all persons wandring abroad, pretending losses by fire or otherwise; and all persons, not being felons, wandring and pretending themselves to be Egyptians, or wandring in the habit, form, or attire of counterfeiting Egyptians; shall be deemed rogues, vagabonds, and sturdy beggars.

And every such person, upon his apprehension, shall, by order of a iustice (or constable, assisted by advice of the minister and one other of that parish), be stripped naked from the middle upwards, and be openly whipped until his body be bloody.

And shall be then sent, from parish to parish, the next streight way, to the parish where he was born, if the same may be known by his confession or otherwise: If not, then to the parish where he last dwelt by the space of one whole year: There to put himself to labour as a true subject ought to do.

In order to which, he shall, after whipping as afore said, have a testimonial of the said justice or constable respectively, testifying that he hath been punished, and mentioning the day and place of his punishment, and the place whereunto he is limited to go, and the time in which he is limited to pass thither at his peril. And if he do not accomplish the order appointed by the said testimonial; then to be oftsoons taken and whipped; and so often as any default shall be found in him contrary to the form of this statute, in every place to be whipped, till he be repaired to the place limited.

And if it be not known where he was born or last dwelt, then to be sent to the parish thro' which he last passed without punishment; to be by the officers of the said village where he last passed without punishment, conveyed to the house of correction or common gaol, there to be employed in work until he be placed in some service, and so to continue by the space of one year; or not being able in body, until he be placed in some almshouse in the same county or place.

And if any of the said rogues shall appear to be dangerous to the inferior sort of people, or otherwise be such as will not be reformed of their roguish kind of life; two justices may commit him to the house of correction or gaol till the next sessions; and the justices there may order him to be banished out of the realm, at the charges of that country; and to be conveyed unto such parts beyond the seas, as shall be assigned by the privy council; or otherwise be judged perpetually to the gallies of this realm.

And if he shall return, such offence shall be felony, and the party offending therein shall suffer death as in case of felony.

Provided always, that every seafaring man suffering shipwrack, not having wherewith to relieve himself in his travels homewards, but having a testimonial from a justice near the place where he landed, setting down therein the place and time where and when he landed, and the place of his dwelling or birth unto which he is to pass, and a convenient time to be therein limited for his passage, may, in the usual ways directly to the place unto which he is directed to pass, and within the time limited for his passage, ask and receive such relief, as shall be necessary in and for his passage.

Provided also, that nothing herein shall extend to any children under the age of seven years.

Nor to any such glaismen, as shall be of good behaviour, and travel without begging, having licence of three justices of the county where they travel.

By the 39 El. c. 17. Whereas divers licentious persons wander up and down in all parts of the realm, under the name of soldiers and mariners, abusing the title of that honourable profession to countenance their wicked behaviour; and do continually assemble themselves weaponed in the highways, and elsewhere in troops, to the great terror of her majesty's true subjects, the impeachment of her laws, and the disturbance of the peace and tranquility of the realm; and  
whereas



whereas many outrages are daily committed by these dissolute persons, and more are likely to ensue if speedy remedy be not provided: it is therefore enacted, that all idle and wandering soldiers or mariners, or idle persons wandering as soldiers or mariners, shall settle themselves in some service, labour, or other lawful course of life, without wandering, or otherwise repair to the places where they were born, or to their dwelling places if they have any, and there remain, betaking themselves to some lawful trade or course of life; on pain of being guilty of felony without benefit of clergy.

And every idle and wandering soldier or mariner, coming from beyond the seas, who shall not have a testimonial from a justice as aforesaid, or shall exceed the time therein limited, above 14 days; and also every person wandering as soldier or mariner, having with him any forged testimonial, knowing the same to be forged; shall be guilty of felony without benefit of clergy.

Provided, that if any such soldier or mariner, coming from the seas, or from beyond the seas, shall not at the time of his landing, or in his travel to the place whereunto he is to repair, going the direct way, that then he resort to some justice next adjoining to the said place of landing or way, and make known unto him his poverty; which said justice may licence him to pass as aforesaid: and in such case, he, pursuing the form of his licence, may for his necessary relief in his travel, ask and take the relief that any person shall willingly give him.

By

By the 1 J. c. 7. Forasmuch as many persons, by colour of the aforesaid proviso in favour of glassmen, do travel up and down, and commit many enormities; it is enacted, that all such persons as shall wander up and down the country to sell glasses, shall be deemed rogues and vagabonds, and be punished as rogues, vagabonds, and sturdy beggars by the aforesaid act of the 39. El. c. 4.

And persons adjudged by the sessions as aforesaid to be incorrigible or dangerous, shall, by judgment of the said court, be branded in the left shoulder with a hot iron, of the breadth of an english shilling, with a great roman R upon the iron; and branding upon the shoulder to be so thoroughly burned and set on upon the skin and flesh, that the letter R be seen and remain for a perpetual mark upon such rogue during his life; and thereupon be sent to the place of his dwelling, if he have any; if not, then to the place where he last dwelt by the space of a year, if that can be known by his confession or otherwise; and if that cannot be known, then to the place of his birth; there to be placed in labour as a true subject ought to do. And after such punishment, if any such rogue shall so offend again, in begging or wandring contrary to the statute; he shall be judged a felon, and suffer as in cases of felony without benefit of clergy.

And every person shall apprehend such rogues, vagabonds, and sturdy beggars, as he shall see or know to resort to his house to beg, and carry him to the next constable; on pain of 10s. Constable, not performing his duty, to forfeit 20s.

By

By an ordinance of parliament, during the time of Cromwell's usurpation, in the year 1656, chap. 21. Whereas the number of wandring, idle, loose, dissolute, and disorderly persons; is of late much increased, by reason of some defects in the statutes heretofore made for the punishment of rogues, vagabonds, and sturdy beggars (they being seldom taken begging); it is enacted, by his highness the lord protector and this present parliament, that every idle, loose, and dissolute person, which shall be found and taken vagrant and wandring from his usual place of abode, and shall not have such good and sufficient cause for his wandring as the justice before whom he is brought shall approve of,—shall be adjudged a rogue, vagabond, and sturdy beggar, within the statute of the 39 Eliz. c. 4. and punished accordingly, altho' he shall not be taken begging.

And if any person or persons, commonly called fidlers or minstrels, shall be taken playing, fiddling, and making musick, in any inn, alehouse, or tavern; or shall be taken proffering themselves, or desiring, or intreating any persons to hear them to play or make musick in any the places aforesaid; every such person shall be adjudged a rogue, vagabond, and sturdy beggar within the statute aforesaid.

And by another ordinance in the same year, chap. 26. Whereas divers lewd and dissolute persons in this commonwealth, live at very high rates and great expences, having no visible estate, profession, or calling (answerable thereunto) to maintain

maintain themselves in their licentious, loose, and ungodly practices; and do make it their trade and livelihood to cheat, deboyft, cozen, and deceive the young gentry and other the good people of this commonwealth: It is enacted, by his highness the lord protector and this present parliament, that any justice of the peace shall have power to send for such person, and require of him sufficient sureties as well for his appearance at the next sessions, as for his good appearing. And on conviction of such offence at the sessions, to be sent to the house of correction for three months.

By the 13 & 14 C. 2. c. 12. Whereas for want of encouragement to persons apprehending vagrants, the statutes of the 39. El. c. 4. and 1 Ja. c. 7. are not duly executed; it is enacted, that the justice before whom such vagrant shall be brought, may order a reward of 2 s to the person bringing him, to be paid by the constable of such parish where the vagrant passed through unapprehended.

And to defray the charges of relieving vagrants, passing them, and carrying them to the house of correction, the constable and churchwardens shall make a rate within the parish, in like manner as the poor rate.

And the justices in sessions shall have power to transport such rogues, vagabonds, and sturdy beggars, as shall be duly convicted and adjudged to be incorrigible, to any of the English plantations beyond the seas.

By

By the 11 & 12 W. c. 18. Whereas many parts of this kingdom are extremely oppressed, by the usual method of conveying vagabonds or beggars from parish to parish in a dilatory manner, whereby such vagabonds or beggars, in hopes of relief from every parish thro' which they are conducted, are encouraged to spend their lives in wandering from one part of the kingdom to another; and, to elude divers charitable and well disposed persons, very frequently forge or counterfeit passes, testimonials, or characters, whereby the charitable intentions of such persons are often abused: It is enacted, that if any vagabond or other person be brought to a constable, with any such pass or other writing, pretending thereby either to be relieved or conveyed; such constable shall carry him to the next justice, who shall, upon examination, if he finds him such person as ought to be punished, send him accordingly to the house of correction; or if he is not such person, then shall order him immediately to be conveyed out of the county, to such town of the next county, unto or thro' which he is to pass, as such justice shall think most proper: And he shall give to such constable, who is to convey him or them, a certificate of the number of such persons, and setting forth also the manner, how, when, and from whence such persons are to be conveyed, whether by cart, horse, or foot; and also shall tax, on the back of such certificate, a reasonable allowance to the constable for his trouble and expence; to be paid out of the gaol and marshalsea money; and if the same

shall be deficient, then out of an assessment to be laid upon the county in like manner as for gaols and bridges. And the petty constable shall not charge the inhabitants of his constabulary, with any sum for the relief or conveyance of such vagrants.

Provided, that where there are several divisions, liberties, and towns corporate, that have separate sessions, and several treasurers for their county stocks; they shall be deemed as counties for the purposes of this act.

By the 1 An. st. 2. c. 13. Whereas the said act of the 11 & 12 W. c. 18. has respect only to such vagrants, as are found to have passes or other writings, pretending thereby either to be relieved or conveyed; it is enacted, that the said act shall be construed to extend, to all vagrants whatsoever, whether with passes or without.

And whereas several great sums, since the making of the said act, have been levied and expended for the conveying of vagrants; and some justices give greater allowances to constables for conveying vagrants than may seem necessary; and the owners of horses, waggons, carts, or other carriages for conveying such vagrants, are often extravagant in their demands; it is enacted, that the justices in easter sessions yearly, shall set and ascertain such rates.

By the 5 An. c. 32. Whereas the methods provided by the former acts for raising money to satisfy the allowances made to constables, for their loss of time and expences in passing of

E

vagrants,

vagrants, have in many places been found impracticable; it is enacted, that where the gaol and marshalsea money shall be deficient, the justices in sessions shall lay an assessment in like manner as for county bridges.

By the 12 An. st. 2. c. 23. The former laws are repealed; and the substance thereof re-enacted, with alterations. Particularly,

Persons apprehended, on privy search, or otherwise, shall be sent to the place of their last legal settlement, if they have any; if that cannot be found, then to the place of their birth; or, if under the age of 14, then to the place of abode of their father or mother, if living; if that cannot be known, then to the parish or town, where they last passed unapprehended.

The manner of conveying such person to be from county to county; and to be whipped in every county thro' which he is conveyed. And no constable shall be obliged to receive him, unless it appear by the pass that he hath been whipped in the county thro' which he last passed (except women great with child, soldiers having certificates from their officers, or such as the justice shall judge not able to undergo such punishment, which shall be certified in the pass).

And there are some other clauses, about lunatics, foreign vagrants, and other particulars; which being re-enacted, with little variation, by the vagrant act now in force, are here omitted.

By

By the 12 G. 2. c. 29. The charges of maintaining and conveying vagrants, shall be paid out of the general country rate.

By the 13 G. 2. c. 24. A distinction is made between idle and disorderly persons; rogues and vagabonds; and incorrigible rogues: and a particular enumeration is given of each species.

And they are ordered to be sent, as before, to the place of their settlement; if that cannot be found, then to the place of their birth; or, if under the age of 14, and they have a father or mother living, then to the place of abode of such father or mother; if none of these, then to the place where they were last found begging or misordering themselves, and passed unapprehended.

And whereas, when the place to which the vagrant is to be sent lies in some distant county, the delivery of such person to the constable of the first town or place in the next county or division is found inconvenient, since it often happens, that such officer is unprovided with, and cannot readily furnish the means of conveying them forwards; it is enacted, that they shall be conveyed from house of correction to house of correction.

The other regulations are nearly the same, as in the present vagrant act; which repeals this act of the 13 G. 2. and enacteth in substance as follows: viz.

By the 17 G. 2. c. 5. Whereas the number of rogues, vagabonds, beggars, and other idle and



disorderly persons daily increases, to the great scandal, lois, and annoyance of the kingdom; it is enacted, that all persons who threaten to run away and leave their wives or children to the parish; and all persons who, having been legally removed to their place of settlement, return without a certificate; and also all persons who, not having wherewith to maintain themselves, live idle, and refuse to work for common wages; and all persons going about from door to door, or placing themselves in streets, highways, or passages, to beg or gather alms in the parishes where they dwell; shall be deemed idle and disorderly persons. And they may be sent to the house of correction for a month. And any person may apprehend those who shall be found begging in their own parishes, and carry them before a justice; for which he shall have a reward of 5s, to be paid by one of the overseers of the poor of such parish, and to be allowed in his account.

And all persons going about as patent gatherers, or gatherers of alms, under pretences of loss by fire or other casualty; or going about as collectors for prisons, gaols, or hospitals; all fencers and bearwards; all common players of interludes; and all persons who shall for gain act any part in any play or farce, not being authorized by law; all minstrels; jugglers; persons pretending to be gypsies, or wandering in the habit or form of Egyptians, or pretending to have skill in physiognomy, palmestry, or like crafty science, or pretending to tell fortunes, or using any subtil craft to deceive and impose on any of his majesty's subjects; or playing or betting

betting at any unlawful games; and all persons who run away and leave their wives or children whereby they become chargeable to the parish; all petty chapmen and pedlars, wandring abroad, not being duly licensed; all persons wandring abroad, and lodging in alehouses, barns, outhouses, or in the open air, not giving a good account of themselves; all persons wandring abroad and begging, pretending to be soldiers, mariners, seafaring men, or pretending to go to work in harvest; and all other persons wandring abroad and begging; shall be deemed rogues and vagabonds.—But this shall not extend to soldiers wanting subsistence, having certificates from their officers, or to seafaring men, licensed by testimonial of a justice, setting down the time and place of their landing or discharge, and the place to which such soldiers or mariners are to pass, and the names of the chief towns or places thro' which they are to pass, and limiting the time of their passage, while they continue in the direct way to the place to which they are to pass, and during the time so limited; or to any person going to work in harvest, having with him a certificate signed by the minister and one of the churchwardens or overseers of the place where he inhabits, declaring that he hath a dwelling house or place there in which he inhabits.

And all end-gatherers offending against an act of the 13 Geo. c. 23. for the better regulation of the woollen manufacture; and all persons apprehended as rogues and vagabonds, and escaping, or refusing to go before a justice, or to be examined on oath, or conveyed, or giving a false account of themselves; and all rogues or

vagabonds who shall escape out of the house of correction; and all persons, having been punished as rogues and vagabonds, and discharged, who shall again commit any of the said offences; shall be deemed incorrigible rogues.

And any person may apprehend offenders; and the constable is obliged to do so: and every person apprehending a rogue and vagabond, shall have a reward of 10s.

And the justices shall four times in the year at least, or oftner (if need be), cause a general privy search to be made in one night, throughout their several districts, for the finding and apprehending of rogues and vagabonds: and every justice, on information that rogues and vagabonds are in any place, shall issue his warrant to apprehend them.

And when any rogue or vagabond shall be brought before a justice; he shall be examined on oath, of his condition and circumstances, and of his settlement; and shall sign his examination. And the justice shall order him to be publickly whipped; or else shall send him to the house of correction till the next sessions, or for a less time. And after such whipping or confinement, the said justice shall, if he thinks convenient, by a pass cause him to be conveyed to the place of his settlement, but if that cannot be found, then to the place of his birth; or if he is under the age of 14 years, and hath a father or mother living, then to the place of abode of such father or mother.

Where such offender shall be committed to the house of correction till the next sessions, and the justices there shall adjudge him a rogue or  
vaga-

vagabond, or an incorrigible rogue; they may order such rogue or vagabond further to be detained in the house of correction not exceeding six months, and such incorrigible rogue not exceeding two years nor less than six months; and during the time of such confinement, to be corrected by whipping, in such manner, and at such times and places within their jurisdiction, as they shall judge proper; and afterwards they may send them by such pass: And if such person, being a male, is above the age of 12 years, they may send him into his majesty's service either by sea or land. And if such incorrigible rogue shall escape out of the house of correction, or shall offend again in like manner; he shall be guilty of felony, and transported for seven years.

And together with the pass, the justice shall give to the constable a note or certificate, ascertaining how they are to be conveyed, by horse, cart, or on foot; and what allowance he shall have for conveying.

And the constable shall convey to the first constable in the next county; who shall, by order of a justice there, convey to the next in like manner; and so from county to county, till they come to the place to which such person is sent. And if the officers of such place, shall think his examination to be false; they may carry him before a justice, who may commit him to the house of correction till the next sessions; and the justices there, if they see cause, may deal with him as an incorrigible rogue. But the person so sent, shall not be removed from the place to which he was sent, but by order of two

justices, as other poor persons are removed to their settlement.

And the justice may order such vagrant to be searched, and his bundles to be inspected; and if he shall be found able to pay for his conveying, in whole or in part, the justice shall order his money to be paid, or other effects to be sold, for that purpose.

Scottish vagrants are to be delivered to the first constable or other officer in the next shire or stewartry, and there disposed of according to law. And if they return, they shall be deemed incorrigible rogues.

Masters of vessels may be compelled to export vagrants to Ireland, or the isles of Man, Jersey, Guernsey, or Scilly; the charges thereof to be paid according to such rate as the justices in sessions of that county from whence they are exported shall appoint.

And the rates for passing vagrants shall be limited by the justices in sessions from time to time; to be paid to the person conveying by the high constable, and to him by the treasurer out of the county rate.

The place to which the vagrants are removed shall set them on work; and if they refuse to work, they shall be sent to the house of correction.

And whereas there are sometimes persons, who by lunacy or otherwise are furiously mad, or are so far disordered in their senses, that they may be dangerous to be permitted to go abroad; it shall be lawful, for two justices to cause such person to be apprehended, and kept safely locked up in some secure place within the county, if his settle-

settlement be therein; and, if they find it necessary, to be there chained. If his settlement be not within such county, they shall send him by a pass to his settlement, to be there ordered in like manner. And the charges of removing, keeping, maintaining, and curing him during such restraint (which shall be only during the time such lunacy or madness continues), shall be paid out of his goods or rents of his lands; but if he have not sufficient, over and above what is requisite for the maintaining his family, the same shall be paid by the place to which he belongs. But this shall not restrain the prerogative of the lord chancellor concerning lunatics; nor hinder any friend or relation from taking them under their own care.

If any person shall suffer any such vagrant to lodge or take shelter in his house, barn, or other out-house or building, and shall not apprehend him, or give notice to a constable; he shall forfeit not exceeding 40s, nor under 10s. And if any charge shall be brought upon the parish by means of such offence, the offender shall make satisfaction according to the order of such justice before whom he shall be convicted.

A vagrant's child, above the age of 7 years, may by the sessions be placed out, as a servant or apprentice, to any person willing to take the same, till the age of 21, or for a less time.

And whereas women wandring and begging, are often delivered of children in parishes and places to which they do not belong, whereby they become chargeable to the same; it is enacted, that where any such woman shall be so delivered, and become chargeable, the churchwardens or

over-

overseers may detain her till they can safely convey her to a justice; who shall examine her, and commit her to the house of correction till the next sessions; who may, if they see convenient, order her to be publickly whipt, and detained in the house of correction, for any further time not exceeding six months. And upon application by the churchwardens or overseers of the place where she was delivered, the justices at such sessions shall order the treasurer to pay them such a sum, as shall be adjudged a reasonable satisfaction, for the charges such place hath been put to on such woman's account. And if such woman shall be detained and conveyed to a justice as aforesaid, the child of which she is delivered, if a bastard, shall not be settled in the place where so born; but the settlement of such woman shall be deemed the settlement of such child.

Any person aggrieved by any act of the justices out of sessions, concerning the execution of this act, may appeal to the next sessions.

Where any offenders shall have been committed to the house of correction till the next sessions; if, upon examination, no place can be found to which they may be sent by a pass, the justices at such sessions may order them to be detained in the house of correction, till they can provide for themselves, or till the justices can place them out in some lawful calling, as servants, apprentices, soldiers, mariners, or otherwise, either within this realm, or his majesty's colonies in America.

Provided

Provided always, that nothing herein shall extend, to disinherit, prejudice, or hinder the heirs or assigns of John Dutton of Dutton, late of the county of Chester, esquire, deceased, their heirs or assigns, concerning the liberty, privilege, pre-eminence, or authority, jurisdiction or inheritance, which they now lawfully use, or lawfully may or ought to use, within the county palatine of Chester, and county of Chester, or either of them, by reason of any ancient charters of any kings of this land, or by reason of any prescription, or lawful usage, or title whatsoever.

And the justices in sessions shall have power to build or enlarge houses of correction, or purchase or hire houses for that purpose; and furnish them with materials; and make orders for the rule and governance thereof; and may fine the masters thereof for misbehaviour, or turn them out at their discretion.

And the whole expences of carrying this act into execution shall be paid out of the general county rate.

## CHAPTER



## CHAPTER THE FOURTH.

*Concerning the impotent poor, it hath  
been enacted as follows :*

**B**Y the 12 R. 2. c. 7. Beggars impotent to serve, shall abide in the cities and towns where they be dwelling at the time of the proclamation of this statute. And if the people of cities or other towns will not or may not suffice to find them; then they shall draw themselves to other towns within the hundreds, or to the towns where they were born, within forty days after the proclamation made; and there shall continually abide during their lives.

By the 11 H. 7. c. 2. All beggars, not able to work, shall go, rest, and abide in that hundred where last he dwelled, or there where he is best known, or born, there to remain without begging out of the hundred; on pain of being punished as a vacabond.

By the 19 H. 7. c. 12. All beggars, not able to work, shall go, rest, and abide in his city, town, or hundred, where they were born, or else to the place where they made last their abode by the space of three years; there to remain, without begging out of the said city, town, hundred, or place; on pain of being taken and punished as a vagabond.

By

By the 22 H. 8. c. 12. The justices shall subdivide themselves, and make inquiry of all aged, poor, and impotent persons, which live, or of necessity be compelled to live by alms of the charity of the people, abiding within every hundred, city, borough, parish, liberty, or franchise, within the limits of their division; and shall have power by their discretions, to inable to beg within such hundred, city, town, parish, or other limits as they shall appoint, such of the said impotent persons, as they shall think most convenient, within the limits of their division, to live of the charity and alms of the people; and shall give in commandment to every such aged and impotent beggar, by them inabled, that none of them shall beg without the limits to them so appointed.

And shall also register the names of every such impotent beggar by them appointed, in a bill or roll indented; the one part thereof to remain with them, the other to be certified to the next sessions.

And they shall make seals, to be ingraven with the names of the hundreds, cities, boroughs, towns, or places, within which they shall appoint every such impotent person to beg; and deliver to every such impotent person by them inabled to beg, a letter containing the name of such impotent person, and witnessing that he is authorized to beg, and the limits within which he is appointed to beg, and to be subscribed with the name of one of the said justices: Which shall be in this form;

“ Kanc.

“ Kanc. ff. Memorandum, that A. B. of  
 “ Dale, for reasonable considerations, is licensed  
 “ to beg, within the hundred of P. K. and L.  
 “ in the said county. Given under the seal of  
 “ that limit. Tali die et anno.”

And if any such impotent person so authorized  
 to beg, do beg in any other place than within  
 such limits as he shall be assigned unto; the ju-  
 stices, constables, or other officers, shall punish  
 all such persons, by imprisonment in the stocks;  
 by the space of two days and two nights, giving  
 them but only bread and water; and, after that,  
 cause them to be sworn, to return without de-  
 lay, to the place where they be authorized to  
 beg in.

By the 27 H. 8. c. 25. Where by the act of  
 the 22 H. 8. c. 12. it was ordained, that aged,  
 poor, and impotent people should repair unto  
 every hundred, where they were born, or had  
 dwelled by the space of three years next before;  
 and it was not provided in the said act, how they  
 should be ordered at their coming thither, nor  
 how the hundred should be charged for their re-  
 lief; it is enacted; that the mayors, sheriffs,  
 constables, householders, and all other head of-  
 ficers, of every city, shire, towns, and parishes,  
 at the repair and coming thither of such poor  
 creature, shall most charitably receive the same;  
 and all the governors and ministers of every such  
 place, shall succour, find, and keep every of the  
 same poor people, by way of voluntary and  
 charitable alms; within the respective cities,  
 shires, towns, hundreds, hamlets, and parishes,  
 with such convenient and necessary alms, as shall

be thought meet by their discretions, in such wise as none of them of very necessity shall be compelled to go openly in begging: On pain, that every parish making default shall forfeit 20s a month.

And the mayors and other head officers of cities, boroughs, and towns corporate, and the churchwardens, or two other of every parish of this realm, shall, in good and charitable wise, take such discreet and convenient order, by gathering and procuring of such charitable and voluntary alms of the good christian people within the same, with boxes every sunday, holiday, and other festival days, or otherwise among themselves, in such good and discreet wise, as the poor, impotent, lame, feeble, sick, and diseased people, being not able to work, may be provided, holpen, and relieved, so that in no wise none of them be suffered to go openly in begging; and such as be lusty, may be kept in continual labour.

Provided, that all leprous, and poor-bedred creatures, may at their own liberty remain and continue in such place where they be; and shall not be compelled to repair into their countries, according to the tenor of the aforesaid act.

And every preacher, parson, vicar, and curate, as well in their sermons, collations, bidding of the beads, as in time of confessions, and at the making of the wills or testaments of any persons: at all times of the year, shall exhort, move, stir, and provoke people, to be liberal and bountifully to extend their good and charitable alms and contributions from time to time, towards the comfort and relief of the said poor, impotent, decrepit,

decrepit, indigent, and needy people, and for setting and keeping to work the able poor.

And for the avoiding of all such inconveniences, and infections, as oftentimes have and daily do chance among the people, by common and open doles, and that most commonly unto such doles many persons do resort which have no need of the same; it is enacted, that no person shall make any such common or open dole, or shall give any ready money in alms, otherwise than to the common boxes and common gatherings in every city, town, hundred, parish, and hamlet, for the putting in execution the good and virtuous purposes of this act; on pain to forfeit ten times as much. And all persons, bodies politick, corporate, and others, that be bound yearly, monthly, or weekly, to distribute any ready money, bread, victual, or other sustentation to poor people, in any place within this realm; shall dispose the same, or the value thereof, to such common boxes, for the relief of the poor in form aforesaid.

And to the intent that the money gathered toward the relief of poverty as is aforesaid, may be employed to such charitable uses as by this act is limited, and no part thereof be misused by such as shall have the collection thereof; it is ordained, that the churchwardens of every parish, calling unto them six or four of their honest neighbours, shall have power every quarter of the year, or oftner by their discretions, to command every such collector to appear before them, and to render account of all sums of money by them gathered, and how employed. And if upon such account it be found, that such col-

lector

lector hath misemployed or imbezilled any part thereof; they shall carry him before a justice, who shall commit him, till he shall have restored and paid back the same, and also 6s 8d for a penalty, to be employed for the purposes of this act.

And books shall be kept in every parish, of the money collected; and how, upon whom, and in what wise, the same was disposed of.

And two or three times in every week, two or three of every parish, within cities and towns corporate, by the assignment of the mayor, governor, or constable, some in one week; and some in another, shall name and appoint certain of the said poor people found of the common alms; to collect and gather broken meats and fragments, and the refuse drink, of every household within every such parish; which shall be by their discretions distributed evenly among the poor people found of the said common alms, as they by their discretions shall think good.

Item, it is ordered, that the constables, churchwardens, or others the collectors of the said alms, which shall at any time forbear their own business and labour, and shall travel or take any pains in the execution of this act; shall have, for their so doing, such competent wages, of the money of the said collections, as by discretion of the mayor, justices, and other of the parish, shall be thought reasonable; which shall be appointed to them, at the making their accounts before the whole parish.

Item, the money collected shall be kept in the common coffer or box in the church; or else shall be committed to the custody of any other

substantial trusty man, as they can agree upon; where it may be delivered to the uses before expressed, from time to time, as necessity shall require.

And no churchwarden, collector or collectors of the foresaid charitable alms, shall continue in their said office above the space of one whole year.

And the overplus of the collections of rich and wealthy parishes, shall be ordered and distributed towards the sustentation of the charges of other poor parishes within the same city, borough, town, or hundred; by the discretion of the mayor, justices, and high constable of the same.

Provided, that where the voluntary and unconstrained alms and charity of the parishioners or people, together with such money as shall be added and given to the same from any monasteries or other persons, bodies politick, corporate, or other, will not suffice for the sustentation of the poor within the limits of such contribution; neither the magistrates, officers, nor inhabitants there shall incur the aforesaid penalty of 20s a month, nor be constrained to any such certain contribution but as their free wills and charities will extend, provided that what shall be collected be justly distributed as aforesaid.

Finally, it is provided, that this act shall not be prejudicial to any abbots, priors, or other persons of the clergy or other, that by any means be bound to give yearly, weekly, or daily alms, in money, victual, lodging, cloathing, or other thing, in any monasteries, almshouses, hospitals, or other foundations or brotherhoods, by any good authority or ancient custom,

custom, or of daily charity by keeping of poor men established for that purpose; nor to any person for receiving of the same, or for their abiding in such hospitals or almshouses according to such foundation; nor also for alms in ready money, or otherwise, to be given to mariners or other persons, that shall fortune to come or be set on land from ships perished or lost on the sea; or to any person that, riding, going, or passing by the way, shall after his conscience or charity give money or other thing, to lame, blind, or sick, aged, or impotent people.

By the 1 Ed. 6. c. 3. Forasmuch as there is many maimed and otherwise lamed, fore, aged, and impotent persons; which, resorting together and making a number, do fill the streets or highways of divers cities, towns, markets, and fairs; who, if they were separated, might easily be nourished in the towns and places wherein they were born, or have been most abiding by the space of three years: it is enacted, that the mayor, constable, or other head officer, of any city, town, or hundred, to which such resort shall be, shall see all such idle, impotent, and aged persons, who otherwise cannot be taken for vagabonds, which were born within the said city, town, or hundred, or have been most conversant there by the space of three years as aforesaid, and now decayed,—bestowed and provided for of tenancies, cottages, or other convenient houses to be lodged in, at the costs of the said cities, towns, boroughs, and villages, there to be relieved and cured by the devotion of good people; and that they suffer no other to remain and beg there, but shall con-



vey them on horseback, cart, chariot, or otherwise, to the next constable, and so from constable to constable, till they be brought to the place where they were born, or most conversant as aforesaid.

Provided, that if any of the said persons be not so lame or impotent, but that they may work in some manner of work; that then such city, town, parish, or village, do either in common provide some such work for them as they may be occupied in, or appoint them to such as will find them work for meat and drink.

And for the more furtherance of the relief of such as are in unfeigned misery; the curate of every parish shall, on every Sunday and holiday, after reading the gospel of the day, make (according to such talent as god hath given him) a godly and brief exhortation to his parishioners, moving and exciting them to remember the poor people, and the duty of christian charity, in relieving of them which be their brethren in Christ, born in the same parish, and needing their help.

And provided always, that all leprous and poor bedred creatures, may at their own liberty remain and continue in such houses appointed for leprous or bedred people, as they now be in; and shall not be compelled to repair into any other countries by virtue of this act: and that also it shall be lawful unto the said leprous and bedred people, for their better reliefs, to appoint their proctor or proctors, so there be not appointed above two persons for any one such house, to gather the alms of all such inhabitants as shall be within

within the compass of four miles of any of the said houses.

By the 3 & 4 Ed. 6. c. 16. Forasmuch as divers men and women, going on begging, impotent and lame, and some able enough to labour, do carry children about with them, which being once brought up in idleness, will hardly be brought after to any good kind of labour or service; it is enacted, that any person may take such child, above the age of 5 years and under 14, to be brought up in any honest labour and occupation, till such woman child come to the age of 15 years or be married, and such man child to the age of 18, if the master so long live.

By the 5 & 6 Ed. 6. c. 2. Yearly, one holiday in whitfun-week, in every city, borough, and town corporate, the mayor, bailiffs, or other head officers, and in every other parish of the country, the parson, vicar, or curate, and the churchwardens, having in a book as well all the names of the inhabitants and householders, as also the names of all such impotent, aged, and needy persons, as being within their city, town corporate, or parish, are not able to live of themselves or by their own labour, shall openly in the church, and quietly after divine service, call the said householders and inhabitants together; among whom, the mayor and two of his brethren in every city, the bailiffs or other head officers in boroughs and towns corporate, the parson vicar or curate and churchwardens in every other parish,

rish, shall elect, nominate, and appoint two able persons or more, to be gatherers and collectors of the charitable alms of all the residue of the people, for the relief of the poor.

Which collectors, the Sunday next after their election, when the people are at the church, and hath heard god's holy word, shall gently ask and demand of every man and woman, what they of their charity will be contented to give weekly, toward the relief of the poor; and the same to be written in the said book.

And the said gatherers, so being elected and chosen, shall justly gather, and truly distribute, the same charitable alms weekly (by themselves or their assigns) to the said poor and impotent persons, without fraud or covin, favour or affection; and after such sort, that the more impotent may have the more help, and such as can get part of their living to have the less; and by the discretion of the collectors, to be put in such labour as they be fit and able to do; but none to go or sit openly a begging.

And no person so elected to be gatherer as aforesaid, shall refuse the said office, but shall justly execute the same, by the space of one whole year next ensuing; on pain of 20 sh.

And they shall account quarterly to the said mayors, bailiffs, or other head officers; or to the said parson, vicar, curate, and churchwardens respectively; at which account, such of the parish as will, may be present. And when they go out of their office, they shall deliver up all surplussage in their hands. And if they refuse to account within eight days, the bishop of the diocese or ordinary shall compel them by censures of the church

church to account before such persons as he shall appoint.

And if any person, being able to further this charitable work, do obstinately and frowardly refuse to give towards the help of the poor, or do wilfully discourage others from so charitable a deed; the parson, vicar, or curate, and churchwardens, of the parish where he dwelleth, shall gently exhort him; and if he will not be so persuaded, then on certificate of such parson, vicar, or curate, to the bishop of the diocese, the bishop shall send for him, to induce and persuade him by charitable ways and means, and so according to his discretion to take order for the reformation thereof.

By the 1 & 2 P. & M. c. 5. The collectors shall be chosen as aforesaid, on some one holiday in the christmas.

And persons refusing the office shall forfeit 40s.

And if it shall chance any parish to have in it more poor than they are able to relieve; two justices, on examination thereof, may grant unto so many of the said poor folks as by their discretion they shall think good, a licence under the seal appointed for the limit, to go abroad to beg and receive alms out of their respective parishes, in such towns, parishes, and places, as shall be named in the said licence, be it in one hundred or more in the said county. Or if it be adjoining to another county; the justices there may give licence in such other county.

And in cities and towns corporate wherein there are divers parishes, some of which are wealthy, and others needy; the mayors and other head officers shall move the parishioners of such wealthy parish, to contribute towards the relief of the poor within such other parish where need is.

And all poor folks licensed to beg out of the limits of any city or town corporate, shall wear both on the breast and back of their outermost garment, some notable badge or token, to be assigned to them by the head officer with the assent of two justices.

By the 5 El. c. 3. Every parson, vicar, curate, or minister, of every parish within this realm, shall yearly for evermore, on the sunday before midsummer day, in the pulpit, or some other convenient place in the church, give knowledge and warning at the end of some of the morning service, to the parishioners then and there present, to prepare themselves, on the sunday then next following, to come to the church, and there to chuse collectors and gatherers for the poor.

And if any person being chosen shall refuse the said office, he shall forfeit 10l.

And if the said collectors, or any of them, shall refuse to account as aforesaid, within eight days next after request made to them for the same; then the bishop of the diocese, or ordinary of the place, chancellors, or their commissaries, together with a justice, and one of the churchwardens, shall have power to commit them to ward, until they shall make their said accounts, before such persons,

persons, as the said bishop or other ordinary and justice shall appoint, and make payment of the sums wherewith they shall be charged upon such account.

And if any person, being able to further this charitable work, do obstinately and frowardly refuse so reasonably to give towards the help and relief of the poor, or do wilfully discourage other from so charitable a deed; the minister and churchwardens shall gently exhort him: and if he will not be so persuaded, then on certificate of the minister to the bishop of the diocese, or ordinary of the place, chancellor, commissary, or guardian of the spiritualties, the said bishop or other ordinary as aforesaid shall send for him, to induce or persuade him by charitable means and ways to extend his charity to the poor, as in this act is well meant and intended. And if the person so sent for, of his froward wilful mind, shall obstinately refuse to give weekly to the relief of the poor, according to his ability; the said bishop or other ordinary shall bind him by recognizance in the sum of 10l, to appear at the next sessions of the place where he inhabiteth, and not to depart without leave of the court; and if he refuseth to be bound, shall commit him till he shall become bound. And at the said sessions, the justices there, if he do appear before them, shall charitably and gently persuade and move him; and if he will not be persuaded, it shall be lawful for the said justices, with the churchwardens or one of them, to sels, tax, and limit upon every such obstinate person so refusing, according to their good discretions, what sum the said obstinate person shall pay weekly towards the relief

relief of the poor within the parish where he dwells. And if he shall refuse to pay the same, the said justices or two of them shall, on complaint and certificate of the said churchwardens, commit him to gaol until he shall pay the said sum so appointed, taxed, and limited.

Provided always, that the curate, minister, or reader, together with the wardens of every chapel of ease, and also the collectors, and all others to whom it shall appertain by virtue of this act, shall do and be liable in all respects with regard to the relief of the poor, in like manner as the vicar, curate, churchwardens, and collectors of every parish ought to do; and not be compellable to resort to their parish church for the same only purpose.

By the 14 El. c. 5. Forasmuch as charity would, that poor, aged, and impotent people should have convenient habitations and abiding places to settle themselves upon, to the end that they should not hereafter beg or wander about; it is therefore enacted, that the justices of the peace of all and every the shires within England and Wales, within the limits of their commissions; and all other justices of the peace, mayors, sheriffs, bailiffs, and other officers of all and every city, borough, riding, and franchise within this realm, whereof they be justices of the peace, within the limits of their authority; shall, within every of their several divisions and authorities, make inquiry of all aged, poor, impotent, and decayed persons, born within their said divisions and limits, or which were there dwelling within  
three

three years next before, which be compelled to live by alms; and enter their names in a book.

And when their number by that means shall be known, the said justices shall appoint within every the said divisions, meet and convenient places by their discretions, to settle the same poor people for their habitations and abidings; if the parish, within which they shall be found, shall not, or will not provide for them.

And (having regard to the number) shall set down, what portion the weekly charge, towards the relief and sustentation of the said poor people, will amount unto, within every the said several divisions.

And that done, they shall tax and assess all and every the inhabitants, dwelling in every city, borough, town, village, hamlet, and place known, within the said limits and divisions, to such weekly charge as every of them shall weekly contribute towards the relief of the said poor people; and shall enter their names in the said book, together with their taxation.

And shall also, within every their said divisions and limits, appoint collectors, for one whole year, of the said weekly portion; who shall collect the same, and make delivery thereof to the said poor people, according to the discretion of the said justices.

And shall also appoint the overseer of the said poor people by their discretions, to continue also for one whole year. And if they do refuse to be overseers, every of them so refusing shall forfeit 10s.

And



And the mayor of the city of London, and the mayor, sheriffs, bailiffs, and other head officers of every other city, borough, or town corporate, and the constables or tithingmen of the several hundreds within all and every the said shires in England and Wales, in all and every such abiding places within their hundreds, limits, and precincts, as shall be appointed to settle the poor people in, shall once a month make search of all the aged, impotent, and lame persons, within the precinct of their jurisdictions; and all such as they shall find, not being born within that division, nor dwelling within the said three years (except leprose people, and bedred people), shall cause to be conveyed, on horseback, in cart, or otherwise, to the next constable; and so from constable to constable, till they be brought to the place where they were born, or most conversant by the space of three years next before; and there to be put in the abiding place, or one of the abiding places appointed for the habitation of the poor people of that country.

And if any of the said poor people, on the appointment of the said justices, refuse to be bestowed in any of the said abiding places, but covet still to hold on their trade of begging; or after they be once bestowed there, do depart and beg; they shall be punished as rogues and vagabonds.

Collectors shall account half yearly, to two justices dwelling next to the said abiding places, and deliver up the surplusage; which if they shall not do, within 14 days after request to them therefore made, the said justices, or one of them, shall commit him till he do.

And

And if any person, being able to further this charitable work, will obstinately refuse to give towards the help and relief of the said poor people, or do wilfully discourage other from so charitable a deed; he shall be brought before two justices, to shew the cause of such refusal or discouragement, and to abide such order therein as the said justices shall appoint: and if he refuse so to do, they shall commit him to gaol till he be contented with their said order, and do perform the same.

Provided always, that the justices, out of the surplus of the said collections, (the poor and impotent being first satisfied and provided for,) shall, by their discretions, in such convenient places within their respective shires as they shall think meet, place and settle to work the rogues and vagabonds that shall be disposed to work, born within their said counties, or there abiding for the most part within the said three years; there to be holden to work by the oversight of the said overseers, to get their livings, and to be sustained only upon their labour and travel.

And if any beggar's child, being above the age of 5 years, and under 14, shall be liked of by any subject of this realm of honest calling, who shall be willing to take the said child into service; the said subject shall, by order of the sessions, have the said child bound with him; if it be a man child, till the age of 24; if a woman child, till the age of 18.

And the justices, at easter sessions yearly, shall appoint new collectors, and new overseers; and otherwise take order for the due execution of this act.

Provided also, that forasmuch as it is thought, that the inhabitants of divers counties, cities, and towns within this realm, be not able to relieve the poor, lame, and impotent persons, with money to be collected in form aforesaid; and that it were over great a burden to the collectors, to gather meat, drink, corn, or other things for their relief, to be employed as aforesaid; it is therefore enacted, that the justices in sessions, within any the counties, cities, or towns of this realm, where collection of money cannot presently be had as this act directeth, may grant licence to such and so many of the said poor, or to any other for them, to ask and gather, within such other town, parish, or parishes, of the said county, as the said justices shall name, the charitable devotion and alms, at the houses of the inhabitants; so that it be within the towns and parishes within the divisions of the said justices that shall so give them licence: And the inhabitants of every such parish, to which such poor shall be so appointed, shall be coerced and bound by virtue of this act, under such pain as to the said justices shall seem convenient, to relieve the said poor in such sort, as the said justices shall appoint.

And if it happen any city or town corporate to have more poor than they are able to relieve; and the same is a county of itself, or standing in one county and adjoining to another: in such case, on certificate of the mayor or other head officer to the justices of such adjoining county; they shall, in their sessions, give licence, and follow the order above remembered.

Also,

Also, be it provided, that if any person shall find himself grieved with any taxation set upon him by virtue of this act; it shall be lawful for him at the next general sessions of the peace to be holden within the same shire, to make complaint thereof to the justices of the bench, and to be eased of his excessive charge, by the discretion of the whole bench, or the most of them.

Provided also, that no diseased, or impotent poor person, living on alms, shall repair to the city of Bath, or town of Buckstone, to the baths there, for ease of their grief; unless they be licensed so to do by two justices, and be provided for by the inhabitants from whence they came, of such relief towards their maintenance, as shall be necessary for the time of their abode, and return home again: on pain of being used as vagabonds.

Finally, it is provided, that the justices within any county of this realm, shall not intromit or enter into any city, borough, place, or town corporate, having justices of its own, for the execution of any thing contained within this act, for any matter or cause arising within the precincts of such city, borough, place, or town corporate; but the justices there shall proceed, as the justices elsewhere may do within the respective counties.

By the 18 El. c. 3. For some better explanation, and needful addition to the foregoing statute, 14 El. c. 5. be it ordained, declared, and enacted; First, concerning bastards, begotten and born out of lawful matrimony (an offence  
against

against god's law and man's law), the said bastards being now left to be kept at the charges of the parish where they be born, to the great burden of the same parish, and in defrauding of relief of the impotent and aged true poor of the same parish, and to the evil example and encouragement of lewd life; that two justices in or next unto the limits where the parish church is, within which parish such bastard shall be born (upon examination of the cause and circumstance) shall and may by their discretion take order, as well for the punishment of the mother and reputed father, as also for the better relief of every such parish in part or in all; and shall and may by like discretion take order for the keeping of every such bastard child, by charging such mother or reputed father with the payment of money weekly, or other sustentation for the relief of such child, in such wise as they shall think meet and convenient. And if after the same order by them subscribed under their hands, such mother or reputed father, upon notice thereof, shall not for their part observe and perform the said order; they shall be committed to the common gaol, there to remain without bail or mainprise, except they shall put in sufficient surety to perform the said order, or else personally to appear at the next general sessions of the peace to be holden in that county where such order shall be taken, and also to abide such order as the said justices, or the more part of them, then and there shall take in that behalf (if they then and there shall take any), and that if at the said sessions the said justices shall take no other order; then to abide  
and

and perform the order before made as is above-said.

Also, to the intent youth may be accustomed and brought up in labour, and then not like to grow to be idle roges; and to the intent also that such as be already grown up in idleness, and so roges at this present, may not have any just excuse in saying that they cannot get any service or work; and that other poor and needy persons, being willing to labour, may be set on work; it is ordained, that within every city and town corporate by appointment of the mayor or other head officer, and in every other market town or other place where the justices in their general sessions yearly after easter shall think meet, shall be provided (of all the inhabitants to be taxed, levied, and gathered) a competent stock of wool, hemp, flax, iron, or other stuff, as the country is most meet for. The same to be committed to the custody of such persons, as by the said officers or magistrates shall be appointed.

Which persons so appointed shall have power (by the advice of them who do appoint them) to dispose, order, and give rules, for the division and manner of working of the said stock; who shall be called the collectors and governors of the poor.

Which collectors and governors, from time to time (as cause requireth) shall of the same stock deliver to such poor and needy persons, a competent portion to be wrought into yarn, or other matter, within such time and in such sort, as in their discretions shall be limited. And the same afterwards being wrought, to be from time to time delivered to the said collectors and gover-

nors; for which they shall make payment to them which work the same, according to the desert of the work; and of new deliver more to be wrought. And so from time to time to deliver unwrought, and receive the same again wrought, as often as cause shall require. Which hemp, wool, flax, or other stuff wrought, shall be sold by the said collectors and governors, either at some market or other place; and with the money coming of the sale, shall buy more stuff, in such wise as the stock shall not be decayed in value.

And if any such person, able to do any such work, shall refuse to work, or shall go abroad begging, or live idly, or taking such work shall spoil or imbecil the same, in such wise that after monition given, the minister and churchwardens of the parish, and the said collectors and governors, shall think the said person not meet to have any more work delivered out of the same stock; then, upon certificate thereof made under their hands, the said person, being brought by one of the said collectors and governors, to such person as shall in that county have the oversight and government of one of the houses of correction hereafter mentioned in this act, in convenient apparel meet for such a body to wear, shall, from such town, place, or parish, be received into such house of correction, there to be straitly kept, as well in diet as in work, and also punished from time to time, as to the said persons, having the oversight and government of the said house of correction, shall be appointed, as hereafter in this act is declared.

And,

And, further, be it enacted, that within every county of this realm, one, two, or more abiding houses, or places convenient, in some market town or other place, by purchase, lease, building, or otherwise; by the appointment of the justices in their said general sessions (of the inhabitants within their several authorities, to be taxed, levied, and gathered) shall be provided, and called the house or houses of correction; and also stock, store, and implements, to be in like sort provided, for setting on work and punishing; not only of those which by the collectors and governors of the poor for causes aforesaid to the said houses of correction shall be brought, but also of such as be inhabitants in no parish, or shall be taken as rogues, or once punished as rogues, and by reason of the uncertainty of their birth, or of their dwelling by the space of three years, or for any other cause, ought to be abiding and kept within the same county.

And the said justices shall appoint persons which shall be overseers of every such house of correction, and shall be called the censors and wardens of the houses of correction, and have the rule and government thereof, according to such orders as by the said justices shall be prescribed. And shall also appoint others, for the gathering of such money, as shall be taxed upon any persons, towards the maintenance of the said houses of correction; which shall be called the collectors for the houses of correction.

And because it is to be hoped, that many well disposed persons, understanding the good success which will grow by setting people on work, and avoiding of idleness, will from time



to time give to the sustentation and maintenance of the same good purpose and intent; and for their better encouragement to the same; — it is enacted, that it shall be lawful for any person, during the space of 20 years next ensuing, to give lands, tenements, and hereditaments, for the purposes aforesaid, without any licence of mortmain.

And whereas by the said former act, no pain is limited for any impotent person, which having a competent allowance provided for him within his parish; shall notwithstanding without licence wander abroad loitering and begging; it is enacted, that every such person shall for his first offence be whipped, and so returned home again unto his parish; and if he shall afterwards offend, being provided for as aforesaid, he shall suffer in all respects as a rogue and vagabond.

By the 35 El. c. 4. Forasmuch as it is agreeable with christian charity, policy, and the honour of our nation, that such as have adventured their lives and lost their limbs, or shall hereafter adventure their lives and lose their limbs, or disable their bodies, in the defence and service of her majesty and the state, should at their return be relieved and rewarded, to the end that they may reap the fruits of their good deservings, and other may be encouraged to perform the like endeavours; it is enacted, that every parish shall be charged to pay weekly such a sum towards their relief as the justices in sessions shall appoint; so as no parish be rated above 6 d nor under 1 d weekly; and so as the sum total in any county, where

where there are above 50 parishes, amount not above the rate of 2 d for every parish.

By the 39 El. c. 3. Be it enacted by the authority of this present parliament, that the churchwardens of every parish, and four substantial householders there, being subsidy men, or for want of subsidy men four other substantial householders of the said parish, who shall be nominated yearly in easter week, under the hand and seal of two or more justices, whereof one to be of the quorum, dwelling in or near the said parish, shall be called overseers of the poor of the same parish.

And they, or the greater part of them, shall take order from time to time, by and with the consent of two or more such justices, for setting to work the children of all such whose parents shall not by the said persons be thought able to keep and maintain their children; and also all such persons, married or unmarried, as having no means to maintain them, use no ordinary and daily trade of life to get their living by.

And also to raise weekly or otherwise (by taxation of every inhabitant, and every occupier of lands in the said parish, in such competent sums as they shall think fit) a convenient stock of flax, hemp, wool, thread, iron, and other necessary ware and stuff, to set the poor on work; and also competent sums, for and towards the necessary relief of the lame, impotent, old, blind, and such other among them being poor, and not able to work; and also for the putting out of such children to be apprentices: To be gathered out of the same parish, according to the ability of

the said parish. And to do and execute all other things as well for the disposing of the said stock, as otherwise concerning the premisses, as to them shall seem convenient.

Which said churchwardens and overseers so to be nominated; or such of them as shall not be let by sickness or other just excuse to be allowed by two such justices, shall meet together at the least once every month in the church of the said parish, upon the Sunday in the afternoon, after divine service; there to consider of some good course to be taken, and of some meet orders to be set down in the premisses.

And shall, within four days after the end of their year, and after other overseers nominated as aforesaid, make and yield up to such two justices, a true and perfect account, of all sums of money by them received, or rated and sessed and not received; and also of such stock as shall be in their hands, or in the hands of any of the poor to work; and of all other things concerning their said office; and such sums of money as shall be in their hands, shall pay and deliver over to the said churchwardens and overseers, newly nominated and appointed as aforesaid; upon pain, that every one of them, absenting themselves without lawful cause as aforesaid from such monthly meeting, or being negligent in their office or in the execution of the orders aforesaid made by the assent of the said justices, to forfeit for every such default 20s.

And be it also enacted, that if the said justices do perceive, that the inhabitants of any parish are not able to levy among themselves sufficient sums of money for the purposes aforesaid; that

then the said justices shall and may tax, rate, and assess as aforesaid, any other of other parishes, or out of any parish within the hundred where the said parish is, to pay such sum and sums of money to the churchwardens and overseers of the said poor parish, for the said purposes, as the said justices shall think fit, according to the intent of this law. And if the said hundred shall not be thought to the said justices able and fit to relieve the said several parishes not able to provide for themselves as aforesaid; then the justices, at their general quarter sessions, shall rate and assess as aforesaid any other of other parishes, or out of any parish within the said county, for the purposes aforesaid, as in their discretion shall seem fit.

And that it shall be lawful for the said churchwardens and overseers, or any of them, by warrant from any two such justices, to levy as well the said sums of money of every one that shall refuse to contribute according as they shall be assessed, by distress and sale of the offender's goods, as the sums of money or stock which shall be behind upon any account to be made as aforesaid, rendering to the party the overplus; and in defect of such distress, it shall be lawful for any two such justices, to commit him to prison, there to remain without bail, till payment of the said sum or stock.

And the said justices, or any one of them, to send to the house of correction, such as shall not employ themselves to work, being appointed thereunto as aforesaid.

And also any two such justices to commit to prison every one of the said churchwardens and overseers, which shall refuse to account; there to remain without bail, till he have made a true account, and satisfied and paid so much as upon the said account shall be remaining in his hands.

And be it further enacted, that it shall be lawful for the said churchwardens and overseers, by the assent of any two justices aforesaid, to bind any such children as aforesaid to be apprentices, where they shall see convenient; till such man-child shall come to the age of 24 years, and such womanchild till the age of 21. The same to be as effectual, as if such child were of full age, and by indenture of covenant bound him or her self.

And to the intent that necessary places of habitation may more conveniently be provided for such poor impotent people; it is enacted, that it shall be lawful for the said churchwardens and overseers, by the leave of the lord of the manor whereof any waste or common in their parish is or shall be parcel, and upon agreement before with him made in writing under his hand and seal; or otherwise, according to any order to be set down by the justices in sessions, by like leave and agreement of the said lord in writing under his hand and seal, to erect, build, and set up, in fit and convenient places of habitation, in such waste or common, at the general charges of the parish, or otherwise of the hundred or county as aforesaid, to be taxed, rated, and gathered, in manner before expressed, convenient houses of dwelling for the said impotent poor, and also place

plate inmates, or more families than one, in one cottage or house.

Provided always, that if any person shall find himself grieved with any less or tax, or other act done by the said churchwardens and other persons, or by the said justices; it shall be lawful for the justices at their general quarter sessions, to take such order therein as to them shall be thought convenient, and the same to bind all parties.

And be it further enacted, that the parents or children of every poor, old, blind, lame, and impotent person, or other poor person not able to work, being of sufficient ability, shall at their own charges relieve and maintain every such poor person, in that manner, and according to that rate, as by the justices at their general quarter sessions shall be assessed; on pain to forfeit 20s for every month that they shall fail therein.

And it is further hereby enacted, that the mayors, bailiffs, or other head officers, of every corporate town, being justices of the peace, shall have the same authority by virtue of this act, within the limits and precincts of their corporations, as well out of sessions, as at their sessions, as is herein limited and appointed to any of the justices of the county, for all the uses and purposes in this act prescribed: and no other justice to enter or meddle there.

And be it also enacted, that if it shall happen any parish to extend it self into more counties than one; or part to lie within the liberties of any city or town corporate, and part without; then, as well the justices of every county, as also the head officers of such city or town corporate, shall deal and intermeddle only in so much of the said

said parish as lieth within their liberty, and not any further.

And further be it enacted, that no person whatsoever shall go wandring abroad and beg, in any place whatsoever, by licence or without; upon pain to be esteemed, taken, and punished as a rogue. Provided, that this shall not extend to any poor people, which shall ask relief of victuals only, in the same parish where such poor people do dwell; so the same be in such time only, and according to such order and direction, as shall be made by the churchwardens and overseers of such parish.

And all penalties and forfeitures before mentioned in this act, shall be employed to the use of the poor of the same parish, and towards a stock and habitation for them, and other necessary uses and relief; and shall be levied by the churchwardens and overseers, or one of them, by warrant from two such justices, by distress and sale; or, in defect thereof, to commit the offender to prison, till the said forfeitures shall be paid.

Next follow the clauses for levying the money for relief of the poor prisoners of the king's bench and marshalsea; which being altered by the 12 G. 2. c. 29. and put thereby into the general county rate, are here omitted.

Finally, forasmuch as all begging is forbidden by this present act; it is provided nevertheless, that every soldier being discharged of his service, or otherwise lawfully licensed to pass into his country, and not having wherewith to relieve himself in his travels homewards; and every seafaring man landing from sea, not having wherewith

with to relieve himself in his travels homewards; having a testimonial under the hand of a justice of or near the place where he landed or was discharged, setting down therein the time and place, where and when he landed or was discharged, and the place of his dwelling or birth unto which he is to pass, and a convenient time therein to be limited for his passage, shall and may, without incurring the penalty of this act, in the usual ways, directly, and in his time limited, ask and receive such relief as shall be necessary in and for his passage.

By the 39 El. c. 5. Whereas the power given by the 18 El. c. 3. to erect hospitals, or other abiding and working houses for the poor, hath not had its due effect, by reason that no person can erect or incorporate any such house without special licence from the crown by letters patents under the great seal; it is therefore enacted, that any person, during the space of 20 years next ensuing, may erect, found, and establish any such house without such licence.

By the 39 El. c. 21. The sums for the relief of soldiers and mariners are enlarged; so as they do not exceed 8d nor be less than 2d weekly for any parish; and so as the sum total in any county, where there are not above 50 parishes, amount not above the rate of 4d for every parish.

Next follows the famous statute of the 43 El. c. 2. which re-enacts, verbatim, for the most part, the foregoing statute of the 39 El. c. 3.

The



The material alterations which it makes, are as follows.

The churchwardens of every parish, and four, three, or two substantial householders there, as shall be thought meet, having respect to the proportion and greatness of the parish, to be nominated yearly in easter week, or within one month after easter, under the hand and seal of two or more justices in the same county, whereof one to be of the quorum, dwelling in or near the same parish, or division where the same parish doth lie, shall be called overseers of the poor of the same parish.

The rate shall be made by taxation of every inhabitant, parson, vicar, and other, and of every occupier of lands, houses, tithes impropriate, propriations of tithes, coal mines, or saleable underwoods.

And where in the former act it is said, that the justices shall send to the house of correction such as shall not employ themselves to work; it is here expressed, that the justices shall send them to the house of correction, or common gaol. (But what they shall do in the gaol, is not specified. And it seemeth a little incongruous to send them thither. The house of correction is the proper place of punishment; where labour is also provided for them.)

Poor apprentices may be bound, the man child to the age of 24, the woman child to the age of 21 or the time of her marriage.

To the clause for erecting cottages, it is added, that the said cottages and places for inmates shall not at any time after be used or employed for any other habitation, but only for impotent

impotent and poor of the same parish, that shall be there placed from time to time by the churchwardens and overseers.

Where in the former act it is said, that parents or children, being of ability, shall maintain such poor persons respectively; it is here expressed, that the father and grandfather, and the mother and grandmother, and the children, of every such poor person shall maintain them.

The clauses relating to the total prohibition of wandering and begging are omitted (for what reason doth not appear).

And there is a provision for the island of Foulness; that it shall maintain its poor within it self, altho' it is not a parish, but the lands therein lie in divers parishes out of the said island.

And a clause empowering officers, sued for any thing done in the execution of this act, to plead the general issue; and, in case they recover, giving them treble costs.

By the 43 El. c. 3. The sums for relief of soldiers and mariners are increased; so as not to exceed 10d nor be less than 2d for any parish weekly; and so as the sum total in any county where there are above 50 parishes, do not exceed the rate of 6d for each parish.

By the 7 J. c. 4. further power is given for the erecting of houses of correction.

And because great charge ariseth upon many places by reason of bastardy, besides the great dishonour of almighty god; it is enacted, that every lewd woman, which shall have any bastard  
which

which may be chargeable to the parish, the justices shall commit her to the house of correction for one year; for the second offence, till she can find sureties for her good behaviour, not to offend so again.

And for that many wilful people, finding that they (having children) have some hope to have relief from the parish where they dwell; and being able to labour, and thereby to relieve themselves and their families, do nevertheless run away out of their parishes, and leave their families upon the parish; it is enacted, that all such persons so running away, shall be punished as incorrigible rogues; and if they threaten to run away, they shall be sent to the house of correction (unless they can put in sureties for the discharge of the parish), there to be dealt with as sturdy and wandering rogues.

By the 3 C. c. 4. All justices of the peace within their several limits and precincts, and in their several sessions, may do and execute all things concerning that part of the statute of the 18 El. c. 3. which concerneth bastards begotten and born out of lawful matrimony, that by justices of the peace in the several counties are by the said statute limited to be done.

By the 13 & 14 C. 2. c. 12. Whereas by reason of some defects in the law, poor people are not restrained from going from one parish to another; and therefore do endeavour to settle themselves in those parishes where there is the best stock, the largest commons or wastes to build cottages, and the most woods for them to burn

burn and destroy, and when they have consumed it, then to another parish, and at last become rogues and vagabonds; to the great discouragement of parishes to provide stocks, where it is liable to be devoured by strangers: Therefore it is enacted, that it shall be lawful, on complaint by the churchwardens or overseers to one justice, within forty days after any such person coming so to settle as aforesaid, in any tenement under the yearly value of 10l, for two justices (whereof one to be of the quorum) of the division where any person that is likely to be chargeable to the parish shall come, to inhabit, by their warrant to remove and convey him, to such parish where he was last legally settled, either as a native, householder, sojourner, apprentice, or servant, for the space of forty days at the least; unless he give sufficient security for the discharge of the said parish, to be allowed by the said justices. Provided, that persons aggrieved may appeal to the next sessions.

But this not to extend to persons going to work in harvest, having proper certificates.

And if such person shall refuse to go, or shall return of his own accord to the parish from whence he was removed; he shall be sent to the house of correction, there to be punished as a vagabond. And if the churchwardens and overseers of the parish to which he is removed, shall refuse to receive him; any justice of that division may bind them to the assizes or sessions, there to be indicted for the contempt.

And whereas the putative fathers and lewd mothers of bastard children run away out of the parish, and sometimes out of the county, and leave

leave the said bastard children upon the charge of the parish where they are born, altho' such putative father and mother have estates sufficient to discharge such parish; it shall be lawful for the churchwardens and overseers to seize so much of the goods, and receive so much of the rents of the lands of such putative father or lewd mother, as shall be ordered by two justices, towards the discharge of the parish, to be confirmed at the sessions, for the bringing up and providing for such bastard child; and the sessions may order the goods to be sold, and the rents of the lands to be applied for that purpose.

And whereas the inhabitants of the counties of Lancashire, Cheshire, Derbyshire, Yorkshire, Northumberland, Durham, Cumberland, Westmerland, and many other counties in England and Wales, by reason of the largeness of the parishes within the same, have not, or cannot reap the benefit of the act of the 43 El. c. 2. it is enacted, that all and every the poor, needy, impotent and lame persons, within every township or village within the several counties aforesaid, shall from and after the passing of this act, be maintained and set on work, within the respective township and village wherein he shall inhabit, or wherein he was last lawfully settled, according to the intent and meaning of this act. And for that purpose, there shall be yearly chosen and appointed two or more overseers within every of the said townships or villages.

By the 1 J. 2. c. 17. Forasmuch as such poor persons, at their first coming to a parish, do commonly conceal themselves; it is enacted,

that the forty days continuance of such a person in a parish, intended by the said act to make a settlement, shall be accounted from the time of his delivery of notice in writing, of the house of his abode, and the number of his family, to one of the churchwardens or overseers of the parish to which he shall so remove.

By the 3 W. c. 11. Forasmuch as the two last acts are somewhat defective and doubtful; for supplying and explaining the same, it is enacted, that the forty days continuance of such person in a parish or town, intended by the said acts to make a settlement, shall be accounted from the publication of the said notice in the church or chapel, on the next lord's day, immediately after divine service, by the churchwarden or overseer to whom it is delivered; who shall publish, or cause the same to be published accordingly.

Provided always, that if any person who shall come to inhabit in any town or parish, shall for himself and on his own account, execute any publick annual office or charge in the said town or parish, during one whole year; or shall be charged with and pay his share towards the publick taxes or levies of the said town or parish; he shall be adjudged to have a legal settlement in the same, tho' no such notice in writing be delivered and published.

And further, if any unmarried person, not having child or children, shall be lawfully hired into any parish or town for one year; such service shall be adjudged a good settlement therein, tho' no such notice be delivered and published.

or town for one year; it is declared and enacted, that no such person so hired as aforesaid, shall be adjudged to have a good settlement, unless he shall continue and abide in the same service during the space of one whole year.

And where any poor children shall be appointed to be bound apprentices pursuant to the act of the 43 El. the persons to whom they are appointed shall receive and provide for them; on pain of forfeiting 10l.

By the 9 & 10 W. c. 11. Whereas some doubts have arisen, by what acts a person coming to inhabit under a certificate as mentioned in the statute aforesaid may obtain a settlement; it is declared, that no person coming into any parish by such certificate, shall be adjudged to have procured a legal settlement therein, unless he shall really and bona fide take a lease of a tenement of 10l a year; or execute some annual office in such parish, being legally placed in such office.

By the 12 An. st. 1. c. 18. Whereas persons bringing certificates frequently take apprentices bound by indenture, and hire and keep servants by the year, who thereby gain settlements, and become a great burden to the respective parishes or places; tho' their masters coming with certificates, have no settlements there: it is enacted, that if any person shall be an apprentice by indenture, or a hired servant, to any person residing under a certificate, such apprenticeship or service shall not gain a settlement.

By

By the 5 G. c. 8. Where parents run away, and leave their wives and children upon the charge of the parish; the churchwardens and overseers, by order of the justices, may seize their effects.

By the 9 G. c. 7. Whereas persons apply to the justices, without the knowledge of the parish officers, and thereby upon untrue suggestions, and sometimes upon false or frivolous pretences, have obtained relief; which hath greatly contributed to the increase of the parish rates: it is enacted, that no justice shall order relief to any poor person, without oath made of the cause; and that such person had applied for, and been refused relief; and until the overseers have been summoned to shew cause. And such person, to whom relief is ordered, shall be entred in the parish book. And the officers shall not bring to the account of the parish, any money given to any poor persons not registred.

And for the greater ease of parishes in the relief of the poor, the overseers may purchase or hire houses in their own parish, and contract with any person, for the lodging, keeping, and employing their poor. And where any parish or township shall be too small to purchase or hire such house for the poor of their own parish only; two or more may join. And the overseers, where such house shall be hired or purchased, may, by agreement, take in the poor of any other parish or place.

And no person shall gain a settlement by virtue of any *purchase* of an estate, whereof the consideration



deration doth not amount to the sum of 30 l bona fide paid, for any further time than he shall inhabit in such estate.

By the 12 G. 2. c. 29. The charges of relieving poor prisoners in the common gaol, in the king's bench and marshalsea prisons, and in the houses of correction, which before were raised by separate collections, are put into the general county rate,

By the 17 G. 2. c. 3. Whereas great inconveniences arise, by reason of the unlimited power of the overseers, who frequently on frivolous pretences, and for private ends, make unjust and illegal rates, in a secret and clandestine manner, contrary to the true intent of the statute of the 43 El. For remedy whereof, and preventing the like abuses for the future, it is enacted, that the overseers shall give notice in the church, of every poor rate allowed by the justices, the next Sunday after such allowance; and no rate shall be allowed sufficient, so as to collect the same, unless such notice have been given. And they shall permit any of the inhabitants to inspect the same, paying one shilling; and give copies, on paying at the rate of 6d for every 24 names.

By the 17 G. 2. c. 38. Whereas by reason of some defects in the act of the 43 El. the rate for relief of the poor is liable to be misapplied; it is enacted, that the overseers shall yearly, within 14 days after new ones shall be appointed, deliver to their successors, a true account, to be entered in a book, and signed by them, of all sums  
by

by them received, or rated and assessed and not received; and of all materials in their hands, or in the hands of any of the poor to be wrought; and of all sums paid by them; and of all other things concerning their office; and the same to be verified by them upon oath before a justice; and shall deliver over the money and materials in their hands on pain of being committed to gaol by two justices, till they shall make such account and delivery.

By the 2 G. 3. c. 22. Whereas the keeping regular, uniform, and annual registers, of all parish poor infants under four years of age, within the bills of mortality, may be a means of preserving the lives of such infants; it is enacted, that the churchwardens and overseers, within the said limits, shall keep books, and enter therein, all infants under the age of four years, who shall be brought to any workhouse, hospital-house, or other house or place provided for the maintenance of the poor within the respective parishes, with all circumstances relating to them; the same to be renewed and continued yearly: and laid before the vestry, or other parish meetings, every month, to be inspected by them.

[There are many other regulations, in several acts of parliament, relating to removals, appeals, certificates, and such like; which, not falling within the general design of this collection, are, for brevity sake, omitted.]

## CHAPTER THE FIFTH.

*Observations on the aforesaid statutes.*

AND thus, having investigated the rise and progress of the laws, so far as they relate to our present purpose; it may be permitted, by way of relaxation and amusement, to indulge in certain observations from thence, affording matter of curiosity, rather than of real use. After which, we shall proceed to inquiries of more important consideration.

I. AND the first thing clearly observable from what hath been laid down, is this: *That the statute of the 43 Eliz. was not the first compulsive law for maintenance of the poor.* It hath been generally supposed, that the said statute established an intirely new plan. And from the known abilities of *Cecil* and *Walsingham* and other great men of that age, arguments have been framed in favour of the excellence of that scheme, and of the difficulty of amending the same, or proposing a better. It is confessedly difficult so to do; as appears, in that the wisdom and experience of succeeding ages, for near 200 years, have not been able to effect it. But the matter lies still deeper: For that statute was not a sudden unpremeditated project of queen Elizabeth's ministers, but had been the work of ages before, dictated by necessity and experience.

And

And it is curious to observe the progress, by what natural steps and advances the compulsory maintenance became established. First, the poor were restrained from begging at large, and were confined to beg within certain districts. Next, the several hundreds, towns corporate, parishes, hamlets, or other like divisions, were required to sustain them with such charitable and voluntary alms, as that none of them of necessity might be compelled to go openly in begging. And the churchwardens, or other substantial inhabitants, were to make collections for them, with boxes on Sundays, and otherwise by their discretions. And the minister was to take all opportunities to exhort and stir up the people to be liberal and bountiful. Next, houses were to be provided for them by the devotion of good people, and materials to set them on such work as they were able to perform. Then, the minister, after the gospel every Sunday, was specially to exhort the parishioners to a liberal contribution. Next, the collectors for the poor, on a certain Sunday in every year, immediately after divine service, were to take down in writing, what every person was willing to give weekly for the ensuing year; and if any should be obstinate and refuse to give, the minister was gently to exhort him; if still he refused, the minister was to certify such refusal to the bishop of the diocese, and the bishop was to send for and exhort him in like manner: If he stood out against the bishop's exhortation; then the bishop was to certify the same to the justices in sessions, and bind him over to appear there: And the justices, at the said sessions, were again gently to move

and persuade him; and, finally, if he would not be persuaded, then they were to assist him what they thought reasonable towards the relief of the poor. And this brought on the general assessment in the fourteenth year of queen Elizabeth.

II. The next thing observable is, another vulgar error, affirming, *That the poor, during the times of popery, were maintained chiefly by the RELIGIOUS HOUSES.* Their hospitality was to the rich. They were great inns. They entertained those bountifully, who could be bountiful to them again. The poor received scraps at their gates, and other donations sometimes; but this was not the chief provision for the poor, even in those days.

III. Another thing very remarkable is, *that almost every proposal which hath been made for the reformation of the poor laws, hath been tried in former ages, and found ineffectual.* As will appear, when those several proposals come to be considered.

IV. Another thing observable is, the antiquity of SETTLEMENTS. It hath been often affirmed, that there was no law concerning settlements till the statute of the 13 & 14 C. 2. But this notion, it appears, is not grounded upon fact. And the progress thereof was as follows: First, the poor were to abide in the cities and towns where they then were; if those cities or towns could not or would not maintain them, then they were to draw themselves to other towns *within*

*the hundred, or to the towns where they were born; next, they were to abide in the hundred where they last dwelt, or were best known, or were born; then, in the place where they were born, or made their last abode by the space of three years; or (as it is otherwise expressed) where they were most conversant, or had their abiding for the most part, within the said three years. And this continued for a long time. In the reign of king James the first, they were to be sent to the place where they last dwelt by the space of one year; and if that could not be known, then to the place of their birth. Finally, by the 13 & 14 C. 2. c. 12. the place of a person's settlement was to be, where he last dwelt for the space of forty days, either as a native, householder, sojourner, apprentice, or servant.*

So that there appear to have been two kinds of settlements almost all along; by birth, or by inhabitancy. Birth was the first settlement; for they could not obtain another till they had inhabited for a certain time, at first for three years, then for one year, and last of all for forty days.

And this confutes certain *dicta* of learned men; affirming, that the first day a man came to any place he was a stranger, the second a sojourner, and the third an inhabitant: Whereas it would have been much nearer the truth, instead of the third day, to have said the third year.

The statutes concerning settlements, subsequent to the 13 & 14 C. 2. are all restrictive of the method established thereby, of obtaining settlements by inhabitancy of forty days. Which easy method of acquiring settlements, appears to

to have been introductory of many frauds. And therefore it became necessary to ordain, that the said forty days should be reckoned, not from the time of coming into a parish, but from the delivering notice thereof in writing; and after that, from the time of publication of such notice in the church. And hence proceeded the other restrictions about certificate persons, servants, apprentices, and such like. From all which it follows, that the statute of C. 2. jumped too far at once, namely, from one whole year to forty days: Which hath been the occasion of much wrangling and contention.

And as the particularities about settlements have by degrees become more and more minute; so have the places or districts, within which the settlement was to be. As, first, within the city, town (corporate), or hundred; next, within the parish; and last of all, the hamlet or vill. Which hath been another cause of multiplying controversies. For where the dispute is between two parishes or townships, there may be no question at all perhaps, but the settlement is within the hundred.

V. Hereby also another common notion is refuted, concerning REMOVALS. It hath been generally understood, that removals were first ordained by the 13 & 14 C. 2. and that the removals which had been from the forty third of Elizabeth to that time, were only by I do not know what *construction of law*. We see, the poor were first required to remove themselves, they were to *go, rest, and abide*; then a *penalty* was ordained if they did not, they were to be punished

punished as vagabonds; then, they were to be *sworn* to go; and in Edward the sixth's time, they were to be *conveyed*.

VI. Another thing arising on the construction of the aforesaid statutes, is concerning BASTARD children.—As to the clause of the 18 *Eliz. c. 3.* which expresses, that the said children were left to be kept *at the charge of the parish where they were born*; this is clearly explained by what hath been observed: for that was then their settlement; and they could have no other, until they should have resided somewhere for three years.

Also, the much litigated point, whether the sessions can proceed originally in the case of bastardy, will hereby receive a clear solution. The 18 *Eliz. c. 3.* was only explanatory of, and supplementary to, the 14 *Eliz. c. 5.* which statutes taken together enact (amongst other) these four things: 1. That the justices within the several counties, and also the justices within cities, boroughs, and towns corporate, within their respective limits, shall take order by a weekly taxation of all and every the inhabitants for relief of the poor. 2. That in case of the several parishes, with respect to bastard children, two justices in or next unto the limits where the parish church is, within which parish such bastard shall be born, shall take order for the keeping such bastard child, by charging the mother or reputed father, with payment of money weekly, or other sustentation for the relief of such child. 3. That if any person is aggrieved with any such taxation, he may appeal to the next general sessions to be holden within the shire. 4. With a proviso, that



### Observations on the statutes. Ch. 5.

that the county justices shall not intromit, or enter into any city, borough, or town corporate, having justices of its own, for the execution hereof, for any matter or cause arising within the precincts of such city, borough, or town corporate; but the justices there shall proceed, as the justices elsewhere may do within the respective counties.——Now both the said statutes were suffered to expire, except only so much as is contained in the second particular abovementioned, rendring the mother and reputed father of bastard children liable to maintain them, which is yet in force. Therefore the clause of appealing, and the power of justices in corporations, was gone. Upon which account, the statute of the 3 C. c. 4. which continued the aforesaid second clause concerning bastard children, enacteth, that *all justices of the peace within their several limits and precincts, and in their several sessions, may do and execute all things concerning that part of the statute of the 18 Eliz. c. 3. which concerneth bastards begotten and born out of lawful matrimony, that by justices in the several counties are by the said statute limited to be done.*——So that the power of proceeding originally in the sessions cannot hereby be supported; but the justices, whether of the counties at large, or of towns corporate or other franchises, out of their sessions, are to charge the mother and reputed father; and if any person is aggrieved, he may appeal to the sessions: just in the same manner, as if the abovesaid four clauses were all still in force.

VII. The next thing that occurs, is concerning the subdividing of parishes into *townships* or *villages*, by the statute of the 13 & 14 C. 2. There is an inconvenience in this, as it goes out of the way of all the former statutes. The *churchwardens* are joint overseers of the poor, with the others specially appointed. They are to meet in the church on sundays, to consider of proper courses to be taken in the execution of their office. Collections are made in the church at the offertory, for relief of the poor. And the whole-business all along proceeded as a parochial concern, under the special direction of the minister and churchwardens. Now the head of a township or village is the constable; and there are many townships in a parish wherein there is no churchwarden. And in that case, it was found necessary, by the 17 G. 2. c. 38. to enact, that in townships or other places where there are no churchwardens, the overseers alone may act. But if we look back so far as the statute of the 5 Eliz. c. 3. we shall find a much more apposite division, into *chapelries*; for that would still keep the matter in the ecclesiastical course, of chapelwardens and overseers. The clause is this:  
 " Provided always, that the curate, minister, or  
 " reader, together with the warden, of every  
 " chapel of ease, and also the collectors, and all  
 " other to whom it shall appertain by virtue of  
 " this act, shall do and be liable in all respects,  
 " with regard to the relief of the poor, in like  
 " manner as the vicar, curate, churchwardens,  
 " and collectors of every parish ought to do;  
 " and not be compellable to resort to their parish  
 " church

“ church, for the same only purpose.” — From hence it may seem, that upon the enacting of a new law, the makers thereof sometimes only look up to the statute immediately before, and do not investigate the whole progress of the law in that particular.

VIII. Hence we may understand, what is meant by the usual clause in the present poor laws, by the justices of the DIVISION.—By the 22 *H.* 8. c. 12. the justices, for the better execution of the laws relating to the poor, were to *subdivide* themselves, and to take order respectively, within their proper *divisions*. — So, *removals* are to be made, by warrant of two justices of the *division*, where any person that is likely to be chargeable to the parish shall come to inhabit. — The *overseers* are to be appointed by two justices dwelling *in or near* the parish; that is, for the sake of convenience, and as they are supposed best to know the characters and circumstances of persons within their own neighbourhood. — Orders of *bastardy* are to be made, by two justices *in or next unto the limits where the parish church is, within which parish the bastard shall be born*; by which designation, and measuring (as it were) from the parish church, it seemeth that no other justices can in that case intermeddle.

IX. Hence we may observe also, the origin of the law, as it stands at this day, for making the *hundred* contributory, in case of the insufficiency of any of the parishes within the same hundred. The hundred was the original place of settlement, to which the poor were to resort.  
There

## Ch. 5. Observations on the statutes.

113

There they were to abide, *without begging out of the hundred*. The overplus of the collections of wealthy parishes, was to be distributed, in aid of other poor parishes *within the hundred*. The poor were to be licensed to beg *within one hundred or more* in the same county. And, finally, if the justices should perceive, that the inhabitants of any parish were not able to make sufficient provision within themselves; they were to assess any other of other parishes, or out of any parish *within the hundred*, in aid of such poor parish: And if the hundred should not be thought sufficient; the justices in sessions were to assess any other of other parishes, or out of any parish *within the county*. And so it still continues.

So that the subdivision of the justices seems to resolve it self into the respective hundreds. And where the matter went out of the hundred, it was to be ordered by the justices of the county at large, in their general or quarter sessions.

In cities, boroughs, and towns corporate, in like manner, the several parishes were to be aiding and assisting each other, under the direction of their own proper justices.

X. Another thing observable is, the progress of the office of OVERSEER OF THE POOR.—The *churchwardens* were the first and original overseers; and they continue overseers still; the churchwardens being, *eo nomine*, by act of parliament, overseers of the poor. For the management of the poor was at first solely an ecclesiastical matter, and the same continues still connected in some degree with ecclesiastical af-

fairs.—In aid of the churchwardens, *collectors* for the poor were next appointed; who were accountable to the churchwardens and other principal inhabitants, for the alms collected by them.

—Next, besides the *collectors*, was appointed also an *overseer*. The business of the *collectors* seems to have been principally to collect; and of the *overseer*, to distribute: the one, to perform the laborious task; and the other, as supposed of superior judgment, to direct. This was, by the statute of the 14 *Eliz.* And then seems to have come in the clause in charity briefs, which is yet not altered; whereby the briefs are directed to the *collectors for the poor and their overseers*.—

Next, the offices were conjoined, under the general appellation of *collectors and governors of the poor*.—Next, the churchwardens and four substantial householders, being *subsidy men*, and for want of subsidy men, four other *substantial householders*, were to be overseers of the poor.—

Last of all, it became settled, that the churchwardens, and four, three, or two *substantial householders*, having respect to the greatness of the parish, shall be overseers of the poor.

Restricting the number, by the last act, probably was, for the sake of convenience; that more should not be troubled, where fewer could do the business. Which also might be the reason of joining the two offices of *collectors* for the poor and their *overseers*, in one person; and that fit persons might be chosen, it is therefore required, that they shall be substantial householders.

## Ch. 5. Observations on the statutes.

115

XI. It is curious also to observe the history of BEGGING. — By the 23 Ed. 3. *None, under the colour of pity or alms, was to give any thing to such as might labour; upon pain of imprisonment.*

By the 19 H. 7. c. 12. *No persons were to beg out of their own city, town, hundred, or place.*

By the 22 H. 8. c. 12. *The justices, under the common seal of the division, might license persons to beg, within such hundred, city, town, parish, or other limits as they should appoint; if they exceeded their limits, they were to be set in the stocks, and sworn to return. And vagrants, after having been punished, were to have a pass limiting the time within which they were to go to their settlement; within which time they might lawfully beg by the way. And persons delivered out of gaol, had liberty to beg for their fees, by licence of their keeper for six weeks, and by letter from the clerk of the peace.*

By the 27 H. 8. c. 25. *Two or three times in every week, certain of the poor people in every parish, within cities and towns corporate, by the assignment of the mayor, governor, or constable, were to collect broken meats and fragments, and the refuse drink of every householder, to be distributed evenly among the poor people. — And for the avoiding of all such inconveniences and infections, as oftentimes chance by common and open doles; no person was to make any such common or open dole, on pain to forfeit ten times as much.*

## Observations on the statutes. Ch. 5.

By the 1 Ed. 6. c. 3. *Leprons* and bedred people might remain in the houses appointed for such persons, and not be compelled to repair to their settlements; and might for their better relief, appoint their *proctors*, to gather alms within four miles distance from any of the said houses.

By the 5 & 6 Ed. 6. c. 21. No *pedlar*, *tinker*, or *petty chapman*, was to go out of the place where he dwelt, and exercise such business, but only such as were *licensed by two justices*, within such circuit, as they should assign.

By the 2 & 3 P. & M. Persons *licensed to beg*, were to wear upon the breast and back of their outermost garment, some notable *badge* or token, to be assigned by the justices.

By the 14 Eliz. c. 5. Persons delivered out of *gaols*, might *beg for their fees*, with licence of two justices.

By the 39 Eliz. c. 3. No person whatsoever was to go wandering abroad and beg, by licence, or without. Provided, that persons might *ask relief of victuals only, in the parish where they dwell*. And except soldiers and seafaring men, with proper testimonials.

Finally, by the 17 G. 2. c. 5. Persons *begging within their own parish*, are to be deemed idle and disorderly persons, and sent to the house of correction.

— The first thing here observable is, that except in the very first of these acts, in Edward the third's time, there is no adequate penalty on persons giving any thing to beggars; and the reason was, because begging was not prohibited, but on the contrary was permitted, encouraged, and enjoined in certain cases.

In

In the *next* place, we may observe the foundation of that pernicious practice, the law whereof hath been long since abolished, the cause having ceased by the introduction of the compulsory maintenance,—of pestering the kingdom with itinerant *passes*. “Permit such a one to pass to such a place, and relieve him with necessaries as to you shall seem meet.” Of which there are printed forms in almost every corporation; and every tradesman or handicraftsman that has the honour to be advanced to the mayoralty, is proud of letting the world know it, by subscribing his name to them. Of these, the forms are fetched out of some old books, which in their day were right and proper. Or they are brought down by tradition, without consulting any books at all, or knowing in any reasonable degree what is the law of the kingdom. I have seen a *tinker’s* licence, solemnly signed and sealed by justices of the peace, founded upon an act of parliament repealed above a hundred and fifty years before.—The validity of these passports is no more than this; An act of parliament says, such a person shall be taken up as a rogue and vagabond. A justice of the peace says, Permit him to pass: That is, with a non-obstante to the said act of parliament. Kings have been sometimes censured for setting themselves above the law; but justices of the peace have been suffered to pass unnoticed.—But these are not the only things that deceive the multitude. The very shadows of them, forged and counterfeit passes, will nonplus a petty constable, and raise contributions throughout a whole county; especially when authenticated (an’t please you) by some



neighbouring justice. It is surprising, with what order and regularity this trade of strolling is carried on amongst that sort of people. They subdivide themselves (which is a shadow of the ancient legal method by the justices) into districts; and appear constantly in their departments at the stated seasons. They meet at all great fairs. They know one another's haunts and lodging places. There they receive and give intelligence, and thereby keep up a correspondence. They know, in the whole country, who will be gull'd by them; who will strip themselves half naked, to supply the place of that cloathing, which they left perhaps under the last hedge. They know likewise, who will cause them to be punished and conveyed to their place of settlement, and therefore never come near such persons; for this disconcerts their whole plan of operations, and makes them falsify (poor creatures) their parole of honour, of being at the place of destination at the time appointed.

*Another* instance of adhering to ancient forms, is, a practice which continues yet in some corporations, of the head officers appointing such and such persons to beg on certain days weekly within their limits; in pursuance (as it seemeth) of the above statute of the 27 H. 8. As if they intended to guard against that trite opprobrium of the uncertainty of the law, by being constant to themselves; and if the law will alter, it shall not be their fault.

What is above expressed, concerning the houses of *lepers*, seems to indicate, that that distemper which is so often mentioned in the old and new testament, is not limited to times  
and

and places, but prevails more in some ages, and in some countries, than in others. It may be considered, whether the change of food (as that is almost as variable as cloathing) may cause the alteration. The *Jews* were tied down by their religion, more than any other nation, to the same kinds of food; in which case, diseases amongst them perhaps might be more uniform.

*Badging* of the poor, we see, is much more ancient than the statute of the 8 & 9 *W.* The notion of it seems to have sprung from the afore-said military institution; when the great lords distinguished their followers with peculiar ensigns and tokens. Which practice is in some sort preserved still in some counties; where the sheriff attends the judges of assize in their circuit, with as large a number as he can procure. This is purely feudal.

Why the clause against common and open *doles* should not be revived, perhaps no sufficient cause can be assigned. This practice still prevails in the country, particularly at funerals. It was founded in superstition; as much as to say, that the giving of those alms would hasten the soul out of purgatory. A funeral in the country is a kind of fair for beggars; promotes their correspondence; encourages idleness, for many a person will travel three or four miles upon such an occasion for two pence, that could have earned sixpence in the time in a lawful occupation; and spreads contagion, as in case of the small pox, or other infectious distemper.

XII. It is affecting to humanity, to observe the various methods that have been invented, for the *punishment* of vagrants; none of all which wrought the desired effect. — It hath been said, that a good law will execute it self. Certainly, this nation hath very great need of such laws; which would diminish the force of that reflection which hath been cast upon us, that we have the best laws, and the worst executed, of any civilized country. This part of our history looks like the history of the savages in America. Almost all severities have been exercised against vagrants, except scalping. The truth is, the laws against vagrants began, in the turbulent times of the great barons; whose attendants, when out of their service and livery, were no better than outlaws. And as one severity fell short, it seemed naturally to follow, that a greater was necessary. — They were to be bound to the *good behaviour*; and for want of sureties (which often would be the case) were to be sent to gaol. — Then they were to be put in the *stocks*, and kept there till they found sureties to return to their place of settlement. — Then they were to be set in the stocks *for three days and three nights, and to have no other sustenance but bread and water*. — But this being so severe, that persons would not apprehend them, therefore it was mitigated to *one day and one night*. — Then they were to be carried to some market town or other place, and there to be *beaten with whips till their bodies were bloody*; For a second offence, to be *whipped*, and put upon the *pillory*, and have *one ear cut off*: For the third offence, to be *whipped*, put upon the *pillory*, and have the *other ear*

ear cut off.—Next, they were to be *whipped*, and to have the *upper part of the gristle of the right ear clean cut off*: For the second offence; to be guilty of *felony* (but within clergy).—Then they were to be *marked with a hot iron in the breast with the letter V*, and *adjudged to be slaves to the person apprehending them, giving them only bread and water, and such refuse of meat and drink as he should think fit; and causing them to work by beating, chaining, or otherwise, in such work and labour (how vile soever) as he should put them unto*: If they ran away; they were to be *marked on the forehead, or ball of the cheek, with the letter S*, and *adjudged to be the said master's slaves for ever*: If they again ran away; they were to be *adjudged guilty of felony*. And they might be sold, or devised by will, as other goods and chattels.—Next, they were to be *grievously whipped, and burnt thro' the gristle of the right ear with a hot iron of the compass of an inch about*; for the second offence, to be guilty of *felony*; and for the third offence, *felony without benefit of clergy*.—Then, they were to be *stripped naked from the middle upwards, and openly whipped till their bodies were bloody*; or might be sent to gaol; or banished out of the realm; or otherwise *adjudged perpetually to the galleys of this realm*.—Then, they were to be *branded in the left shoulder with a hot iron of the breadth of a shilling with the letter R*, so as that the letter might be seen and remain for a perpetual mark on them during life.—After that, by the 12 An. they were to be *publicly whipt*; or else sent to the house of correction, and there whipt and kept to hard labour: or the justices in sessions might transport them.—And finally, by the 17 G. 2. c. 5. they are to be *publicly whipt*,

## Observations on the Statutes. Ch. 5.

or sent to the *house of correction*, or sent into his *majesty's service by sea or land*, or *transported*.

From all which premisses, the obvious conclusion seems to be, that punishment alone is not sufficient. Therefore the remedy must be sought elsewhere.

*Whipping*, we may observe, in the vagrant acts of late years, is only specified thus—*to be publicly whipped*: The form and manner of it seeming to be left to the discretion of the magistrate. But this discretion seemeth best directed by the more explicit provisions of former laws;—as, by the 39 El. c. 4. *to be stripped naked from the middle upwards, and be openly whipped till his body be bloody*;—more anciently, by the 22 H. 8. c. 12. *to be carried to some market town or other place, and there to be tied to the end of a cart naked, and be beaten with whips throughout such market town or other place, till his body be bloody by reason of such whipping*.—Hence we may observe the origin of the common expression, that such a person deserves to be *carted*, or to be *tied to the end of a cart*, and such like.

Here also it is apparent, that the notion of *slavery* was not unknown to our laws, so early as the reign of king Edward the sixth; which was before we had any colonies in America. And there seems to have been no question in those days, whether a christian man might be made a slave.

XIII. The method of *conveying* vagrants, hath been likewise various. — First, they were to be put in the stocks, till they found surety to *return*

## Ch. 5. Observations on the statutes.

123

*of themselves.* — Then, they were to be *sworn to return*, and to have a pass given to them, specifying their punishment, the place to which they were to go, and in what time; and in every place where they exceeded the limits of their pass, they were to be again taken and whipped. — And at the end of every ten miles, they were to repair to the next constable in their way; who, on sight of the pass, was to furnish them with meat, drink, and lodging, for one night only, or for one meal. — Next, they were to be delivered to the constable where they were taken, and by him be delivered to the next constable; and so *from constable to constable*, till they came to the place to which they were to be sent. — Then they were to be sent *from parish to parish*. — Then *from county to county*. — Then *from house of correction to house of correction*. — Then again, finally, *from county to county*.

Here wants no new method to be invented for the manner of conveying. — By changing so often in the manner of punishment, and of conveying, it appears that they found something was still wrong. But they did not hit upon what was right.

XIV. With respect to SOLDIERS disbanded, or SEAMEN landing from sea or having been shipwrecked; we may observe, the provision for their return home by passes, and licence to beg by the way, is of very early date. And this was very agreeable to the practice of those times, when the poor were subsisted solely by voluntary alms. And these provisions have been continued from time to time, in relation to soldiers and  
seamen,

## Observations on the statutes, Ch. 5.

seamen, whilst the laws concerning the other poor have been totally altered. Which hath opened wide the door, to one of the worst sorts of common begging.

The statute abovementioned of the 39 Eliz. c. 17. making impostors in this kind felons without benefit of clergy, seems (in practice at least) to be understood as repealed, or expired, or (however) obsolete; altho' undoubtedly it is yet in force.

And here, by the way, a key is offered, to explain a palpable inaccuracy or mistake in the said statute of the 39 Eliz. c. 17. which says, "if any soldier or mariner coming from the seas, shall not at the time of his landing, or in his travel to the place whereunto he is to repair, going the direct way, he may resort to a justice, and make known to him his poverty; which justice may license him to pass the next direct way to the place where he is to repair, limiting to him so much time only as shall be necessary for his travel thither; and in such case, pursuing the form of his licence, he may for his necessary relief in his travel, ask and take the relief, that any person shall willingly give him". There is no other clause in any act of parliament now in force, whereby justices of the peace have power to license any persons to beg; and this here is plainly deficient and imperfect in the sense. In order to rectify it, and to shew what the act really meant, the properest method is to have recourse to former statutes where the like clause was inserted. And there we shall find, that the sentence originally did run thus: "If any soldier or mariner, coming

“ coming from the seas, shall not at the time  
 “ of his landing, or in his travel to the place,  
 “ whereunto he is to repair, going the direct  
 “ way, have wherewith to relieve himself in his  
 “ travels homewards, he may repair to a justice”,  
 and so on.

XV: The vagrant acts of late years have distinguished the offenders into three kinds; *idle and disorderly persons, rogues and vagabonds, and incorrigible rogues*; and have particularly defined each of these different sorts. In the former acts, the descriptions were more general; and consequently, more latitude was given to the discretion of the justices. With respect to *idle and disorderly persons*, it was thus variously enacted:—The constables shall apprehend *idle persons living suspiciously*.—If any person, able to labour, be vagrant, and *can give no reckoning how he lawfully gets his living*; the constable shall apprehend him, and bring him to a justice.——And by an ordinance of Cromwell, in the year 1656; Whereas divers *lewd and dissolute persons, live at very high rates and great expences, having no visible estate, profession, or calling, agreeable therunto, to maintain themselves in their licentious, loose, and ungodly practices*; and do make it their trade and livelihood to cheat, cozen, and deceive; it is enacted, that a justice of the peace shall have power to send for them, and require of them sufficient sureties, as well for their appearance at the next sessions, as for their good abearing.

And



And in almost all the books concerning the office of a justice of the peace, offenders of this denomination are set forth as persons who may be bound to the good behaviour; and there are precedents of commitments to the house of correction of persons described in this loose manner; as if all these ancient statutes, and even that ordinance of Cromwell, were still in force. For where precedents once get into any edition of a book, they seldom get out again, let the law alter as it may.—Therefore justices of the peace will do well to be cautious, and distinguish in all such like cases, between what the law once was, and what the law now is.

XVI. MINSTRELS seem to have been of ancient merry account, agreeable to the social and cheerful spirit of the English nation. In one of the sumptuary laws of Edward the fourth, restraining excess in apparel, minstrels are specially excepted. By the 14 *El. c. 5.* all common players in interludes, and minstrels, not belonging to any baron of this realm or person of greater degree, wandering abroad, and not having licence of two justices, were to be deemed rogues and vagabonds: Provided, that this should not prejudice any right or privilege of John Dutton of Dutton in the county of Chester, esquire, his heirs or assigns.

The story of Dutton is well known; claiming by grant a power to license minstrels within the county, and city of the county, of Chester. And this, we see, was agreeable to the power which the barons and great men had in general, of retaining minstrels in their households; or two justices

justices might license them to wander abroad. In the subsequent statutes, this licensing by justices was left out. And afterwards, as the puritanical spirit prevailed, open war seems to have been proclaimed against all musick and merry meetings. Till at last, by one of Cromwell's ordinances in the year 1656, it was enacted, that if any person or persons, commonly called fiddlers or minstrels, shall be taken playing, fiddling, and making musick, in any inn, alehouse, or tavern; or shall be taken proffering themselves, or desiring, or intreating any persons to hear them to play or make musick in any the places aforesaid; every such person shall be adjudged a rogue, vagabond, and sturdy beggar.—They would cut throats; but could not bear the sin of merriment.

XVII. It is amusing to observe, in the foregoing ancient statutes, certain *quaint expressions*, as they appear to us now, indicating, that what the language of the age of Edward the third is to us at this time, ours will appear to posterity three or four hundred years hence.

In the rating of wages, it is set forth, how much by the day shall be taken, by *tilers, and other coverers of fern and straw, and their "knaves"*.—The Saxon *knape*, or *knafa*, signifies a *servant*. And the thatchers to this day have an instrument that holds their straw, which they call a *knape*. What is observable here is, the generous notions entertained by our ancestors, with respect to an action base and ignoble. They would not suppose it to belong to a free-man, but appropriated it to the inferior rank of  
 3 people

people. A *knavish* action was such, as was fit only for one of the meaner servants. A *villain* was a degree lower than the thatcher's servant; for he was the drudge of his lord, not even susceptible of property in many cases, but was himself of the goods and chattels of his master. Therefore an offence, accompanied with extraordinary aggravation, was termed *villainous*. As much as to say, iniquity degrades a man, and ranks him among the vulgar.—So a man who was devoid of *courage*, and consequently unfit for the military profession, was denominated a *cow-herd* (for that, most probably, is the genuine etymology of what we now call *coward*).—On the other hand, these inferior persons were not behind hand with the great men (for there never wanted humour even amongst the common people): If a man was half an idiot, or remarkably deformed in body, they would style him *My Lord*. And by way of ridicule of their jovialness and hospitality, when a man was in liquor, they would call him *as drunk as a lord*.—These and many other like expressions and customs, which have come down to our days, were originally feudal, having relation to the military institution, and the distinction betwixt lord and vassal.

And in many of the aforesaid ancient laws, respect is had to this same military establishment.—As to *servants*; the lords were to be preferred before others in their bondmen, or their land tenants, so that they retained no more than were necessary for them.—The reason for *raising of wages* is alledged to be, for that servants, unless they might have double or treble wages, with-

threw themselves to serve great men and other.—  
*Vagrants* are stigmatized with the appellation of  
*strong beggars, valiant beggars*, persons *whole and*  
*mighty in body*; that is, such as had been re-  
 tainers to the great lords, who when out of their  
 livery and service, wandered abroad, committing  
 spoil and outrage.

These considerations present to us a very ma-  
 terial difference between the spirit of the ancient  
 and present laws. The object of the legislature  
 in former ages, was to prevent enormities; the  
 present laws are calculated to encourage industry.  
 Anciently, the *maintenance* of the poor was prin-  
 cipally intended; their *employment*, at present,  
 merits equally our regard. From which altera-  
 tion of circumstances, it will follow, that one  
 and the same law may not be equally applicable  
 at all times; that a provision which was proper  
 for the time, may not be now effectual; or per-  
 haps, a law, good in itself, which might not be  
 altogether suitable for the times in which it was  
 made, may be more beneficial afterwards.

XVIII. RATING OF THE WAGES of servants,  
 artificers, and labourers, is also (as we see) of  
 very ancient date. So early as the reign of Ed-  
 ward the third, when their numbers were re-  
 duced by the pestilence, they were required ne-  
 vertheless, not to take more wages than had been  
 usually taken. Afterwards, in the same king's  
 reign, and by many other statutes in the reigns  
 of the following kings, as the value of money,  
 or provisions altered, particular sums for each  
 were limited. As for instance, by one of the  
 laws of Edward the third, tilers were to have

3d. a day, and their knaves 1½d, without meat or drink. In the reign of Richard the second, a bailiff of husbandry was to have 13s 4d a year, and his cloathing once a year; master hinc 10s; shepherd 10s; oxherd 6s. 8d.; cowherd 6s 8d; and so of the rest. In the reign of Hen. 6. the wages of a bailiff of husbandry was not to exceed 11 3s 4d, and cloathing of the price of 5s, with meat and drink: Chief hind, carter, or chief shepherd 20s, cloathing 4s; woman servant 10s, cloathing 4s; and the rest in proportion. Finally, by the 5 Eliz. c. 4. the justices were to fix the price of wages according to the dearthness of victuals; and so the law still continues: Which yet never has been effectual, and is not now put in execution perhaps in any one county in the kingdom. By the experience of above 400 years, it seems time to lay aside all endeavours to bring under strict regulations, what in its own nature seems incapable of minute limitation: As thereby it leaves no room for industry or ingenuity; for if all persons, in the same kind of work, were to receive equal wages, there would be no emulation.

Here it is observable, what scarcity of artificers there must have been, in proportion to servants and labourers. In Richard the second's time, the wages of the master hind, or other like superior servant (as we have seen), was 10s a year, with meat and drink, and cloathing once a year: The cloathing was valued at about 4s; So that the whole year's wages amounted to 14s. A master carpenter, tiler, or other such like workman had (with meat and drink) about 2d a day, which by the year would amount to

21 12s od. So the servants of the said artificers, whose service consisted barely in labour, without any requisite knowledge of the trade (or, as they called it, of the craft, or mystery), had but half as much as their masters. When the wage was 3d, we find the meat and drink for a day was estimated at three halfpence.

The *cloathing* of a servant, so late as Henry the sixth's time, being estimated only at 4s a year, argues that cloth was not generally of so much price in ancient time; as hath been sometimes supposed. Where in one of the statutes of Edward the third, it is limited, that *people of handicraft and yomen shall not take nor wear cloth of a higher price for their vesture or hosing, than within 40s the whole cloth*; it is not meant, that their whole cloathing shall not exceed 40s price, or shall not be made of cloth above 40s a yard; but that such their apparel shall not consist of cloth above the value of 40s for the whole piece or web; which web was limited in length, breadth, and weight; and at that time, the cloth of assize (as they called it) was, according to the difference of the sorts, to be 26 or 28 yards long, and six quarters or six quarters and a half broad. So that where the whole cloth was valued at 40s, the same was at the rate of about seventeen or eighteen pence a yard.

Note, money in Edward the third's time was in weight just thrice as much as it is now; twenty shillings then being a real pound weight; since which time, it hath gradually decreased, so as that sixty shillings now are required to make a pound. Therefore wages at 3d a day in those times, was equal to our 9d, exclusive

of the difference in the value of provisions and other necessaries.

And here it is observable, upon the subject of cloathing, how the restrictions as to the goodness or quantity of cloth in their garments, vanished by degrees, as manufactures increased; until at length in queen Elizabeth's reign, the current received a contrary direction, and wearing of the manufactures was enjoined: concerning which, the first act that hath occurred, is that of the 13 El. c. 19. by which it is required, that every person above the age of six years (except maidens, ladies, and gentlewomen; and lords, knights, and gentlemen of 20 marks a year) shall wear upon the sabbath and holiday, upon their head, one cap of wool knit, thicked, and dressed in England; on pain of 3s 4d. The form of which cap may be seen in some of the pictures of those days.

And here, curiosity will suggest certain reflections upon that noble subject of *painting*. Why are persons pictured in Grecian or Roman habits, or in such habits as never were worn in any age? Would it not be infinitely more entertaining, to see every person drawn in his own proper dress? It would be a work becoming the pencil of a skilful artist, from such paintings as may be yet found, from history, from acts of parliament and other sumptuary laws, to exhibit a series of persons (of both sexes) in the habits of their respective ages at proper intervals.

XIX. The laws prohibitory of GAMING, seem at first to have been intended for the encouragement of the military profession, particularly that the

the people might be at leisure for the exercise of the long bow, for which our ancestors were famed throughout Europe. And the high constable, to this day, in some places, issues his warrants to the petty constables, requiring them, amongst their presentments to be made at the assizes, to give an account how their butts are kept up. Shooting for the prize of a silver arrow, is a relick of the said custom. And to the same may be attributed perhaps the planting of yews in church-yards of ancient time; of which the best bows were made.

The same prohibitions of gaming are now continued, for the encouragement of trade and manufacture.

Curiosity, in this branch, would suggest, that those gentlemen who oblige the world with dissertations on these intricate and interesting subjects, would be pleased to inform their readers of the rise and progress of the several arts; with particular descriptions of such as seem to be now in a great measure out of use; lest in time they should be forgotten, and posterity might not know what is meant by several expressions in our statute books; such as, of old, *cloffi*, *kailes*, *half-bowl*, *band-in and band-out*, *logating*, *quekborde*; and, in the present age, *skittles*, *mississipi*, *ace of hearts*, *basset*, *fara*, *passage*, *roly poly*, *punting*, and other technical and significant terms.—Particularly, *cards*, one would suppose, might come in towards the latter end of the reign of king Edward the fourth, or beginning of the reign of king Henry the seventh, for they are not mentioned amongst the other games, till the statute of the 11 H. 7. c. 2. and after that, they are never



omitted. It is pity the inventor should be buried in oblivion, for want of a suitable historian to record him.

## CHAPTER THE SIXTH.

### *Account of the several schemes for reforming the poor laws.*

HAVING indulged enough in speculation and amusement, it is time to apply to more serious business. Something in the poor laws is wrong; which the wisdom of parliament for ages hath not been able to set right. Many private persons also have endeavoured to lend their helping hand. There have been many proposals published from time to time; to offer remedies; which proposals have not been accepted, or have not succeeded. The truth is, they generally take it for granted, that the statute of the 43 Eliz. was the first compulsory statute; and in consequence thereof, they propose expedients, which indeed had occurred to the legislature long before. The first of them bears the respectable name of the lord chief justice Hale. He proposes to have general work-houses, for one, two, or more parishes, according to their largeness or other convenience; with masters to attend and direct them.—But because almost all the subsequent schemes that have been offered, look up to this as their great pattern; and

and as nothing that this author hath delivered is tedious to the reader; I will insert his proposal at length, in his own words.

## I.

## Lord HALE's Plan.

**A** DUE care for the relief of the poor is an act,

First, of great piety towards almighty god, who requires it of us. He hath left the poor as his pupils, and the rich as his stewards to provide for them. It is one of those great tributes that he justly requires from the rest of mankind; which because they cannot pay to him, he hath scattered the poor amongst them, as his substitutes and receivers.

Secondly, It is an act of greatest humanity among men. Mercy and benignity is due to the very beasts that serve us; much more, to those that are partakers of the same common nature with us.

Thirdly, It is an act of great civil prudence and political wisdom: For poverty in it self is apt to emasculate the minds of men, or at least it makes men tumultuous and unquiet. Where there are many very poor, the rich cannot long or safely continue such. Necessity renders men of phlegmatic and dull natures stupid and indisciplinable, and men of more fiery or active constitutions rapacious and desperate.

At this day, it seems to me, that the English nation is more deficient in their prudent provi-

sion for the poor, than any other cultivated and christian state; at least that have so many opportunities and advantages to supply them.

In some other countries, a beggar is a rare sight. Those that are unable to maintain themselves by age or impotency are relieved. And those that are able to supply their wants by their labour, are furnished with employments suitable to their condition. And by this means, there is not only a good and orderly education, and a decent face of the publick; but the more populous the state or country is, the richer and the more wealthy it is.

But with us in England, for want of a due regulation of things, the more populous we are, the poorer we are; so *that* wherein the strength and wealth of a kingdom consists, renders us the weaker and the poorer.

And which is yet worse, poor families which daily multiply in the kingdom, for want of a due order for their employment in an honest course of life, whereby they may gain subsistence for them and their children, do unavoidably bring up their children either in a trade of begging, or stealing, or such other idle course, which again they propagate over to their children; and so there is a successive multiplication of hurtful or at least unprofitable people, neither capable of discipline nor beneficial employment.

It is true, we have very severe laws against begging, the very giver being in some cases subject to a penalty, by the statute of the 1 James, c. 7. But it takes little effect. And indeed, as the case stands with us, it is no reason it should. For what man that is of ability, can have the  
conscience

conscience to deny an alms, or to bring a wanderer to punishment, when he cannot chuse but know, that there is not that due course provided, or at least used, that persons necessitous, and able to work, may have it. Indeed, were there a clear means practised for the employing of poor persons, it were an uncharitable action to relieve them in a course of idleness. But when I do not know that there is such a provision, I dare not deny my relief; because I know not whether without it he may be starved with hunger, without his own default.

We have also very severe laws against theft, possibly more severe than most other nations, yea, and than the offence in it self simply considered deserves. And there is little to be said in defence of the severity of the law herein, but the multitude of the offenders, and the design of the law rather to terrify than to punish, *ut metus in omnes, pena in paucos perveniat*. But it is most apparent, that the law is frustrated of its design therein. For altho' more suffer at one sessions at Newgate, for stealing, and breaking of houses, and picking of pockets, and such other larcenies out of the protection of clergy, than suffer in some other countries for all offences in three years, yet the gaols are never the emptier. Necessity, and poverty, and want of a due provision for the employment of indigent persons, and the custom of a loose and idle life, daily supply with advantage the number of those who are taken off by the sentence of the law. And doubtless, as the multitude of poor and necessitous and uneducated persons increases, the multitude

multitude of malefactors will increase, notwithstanding the examples of severity.

So that upon the whole account, the prudence of prevention, as it is more christian, so it will be more effectual than the prudence of remedy. The prevention of poverty, idleness, and a loose and disorderly education, even of poor children, would do more good to this kingdom, than all the gibbets, and cauterizations, and whipping-posts, and gaols in the kingdom; and would render these kinds of discipline less necessary, and less frequent.

But hitherto I am in generals, which rarely prosper into action or conviction. I therefore shall consider principally these things :

1. *What provisions there are already settled, by the laws in force, for the relief and employment of the poor.*
2. *Wherein the defects are, in relation to those laws or provisions; and the consequences thereof.*
3. *What may be thought a convenient supply of those defects, and the consequences of such supplies.*

§. 1. *Touching the laws at present in force  
for the relief and employment of the poor.*

THE laws relating to the poor are of two kinds; first, such as concern the relief of the aged, and impotent, that are not able by their labour to maintain themselves; secondly, such as concern the employment and setting on work of such as are able. And this latter, as shall be shewn, is the more comprehensive and beneficial charity, altho' both are necessary and become us, both as *men*, and as *christians* much more.

Touching the *former* of these, to wit, the *relief of the impotent poor*, the laws of England have provided a double remedy: First, by giving great encouragement to *voluntary* undertakings of good and liberal minds in this kind; and secondly, by *compulsary* means upon all.

Touching the former branch; the statute of the 39 Eliz. c. 5. hath given a great encouragement to such as shall erect hospitals, houses of correction, and *maisons de dieu*. And the statutes of the 39 Eliz. c. 6. and 43 Eliz. c. 4. have taken special care for the due employment of gifts to charitable uses. And certainly such voluntary assignments argue an excellent and charitable mind in those that shall so voluntarily give; and the statutes have given a fair encouragement to the charities of men in this kind. But this provision doth but little in order to relief. For such hospitals for the most part, extend but to a few aged persons, limited to some particular town, unless it be in the large hospitals  
in

in London, where there is some provision more extensive in respect both of number and age, as St Thomas's hospital, Christ-Church hospital; and some others. But besides this, those are but voluntary and not compulsory. Altho' there may be some that may be charitably minded; yet for the most part men are backward in works of charity. Self love, covetousness, distrust of the truth and providence of god, keep most men from overflowing charity, or building or endowing hospitals.

Therefore there was a *compulsary* laid upon men, for the relief of the poor within their respective parishes, to wit, the statute of the 43 Eliz. c. 2. being the first compulsory law that I remember of that kind. And indeed it now became necessary to be done by a compulsory means, which before that time was left more arbitrary; because the kingdom became then much more populous than in former time, and with it the poor also greatly increased; and besides, many of those methods of their voluntary relief was then much abated: Which statute enables the churchwardens and overseers to do these things:

1. To take order for setting to work the children of those whose parents are not able to maintain their children.

2. To take order to set those to work, who having no means to maintain themselves, use no ordinary trade. But provides not sufficient compulsaries to make them work.

3. To raise weekly by taxation, a convenient stock of flax, hemp, and other materials, to set the poor on work: But no means at the first, before the return of the manufacture, to pay them

them wages, in express words; but is supplied by the latter general clause—and to do and execute all other things, as well for the disposing of the said stock, or otherwise concerning the premises, as to them shall seem convenient.

4. To raise competent sums of money, for the impotent poor not able to work.

5. Also for the putting of poor children apprentices, but no compulsory for any to receive them.†

Among all these provisions, the 4th concerns the relief of the poor by taxation, and contributions to such as are impotent. The four other particulars concern the employment of such as are able to work, which is far the greater number. And altho' the relief of the impotent poor seems to be a charity of more immediate exigence, yet the employment of the poor is a charity of greater extent, and of very great and important consequence to the publick wealth, and peace of the kingdom, and also to the benefit and advantage of the poor.

I therefore come to that *second* business relating to the poor; namely, the *setting the poor on work*.

—The laws that concern that business of the *employment* of the poor, are of two kinds; viz. that which contains a compulsory means of providing work for the poor, which is the statute of the 43d of Elizabeth; and secondly those laws which are in some kind compulsory to force

---

† But afterwards, by the 8 & 9 W. c. 30. power was given to the justices to compel persons to receive them.



persons to work. And these again are of two kinds :

First, Those that concern children and the binding of them apprentices; to wit, the clause of the statute of the 43 Eliz. c. 2. before mentioned, and the statute of the 7 J. c. 3. which makes fair provision for the raising of money to bind them; and directs the manner of its employment; but, as before is observed, hath not any sufficient compulsory for persons to take them, and perchance it might be fit to have some such qualifications in that compulsory, which might not leave it too arbitrary in the justices of peace to compel whom they please, to take whom they please. But this is not the business I drive at; perchance the general provision which I design may make this at least not so frequently necessary.

Secondly, In reference to rogues, vagabonds, and idle and disorderly persons, the statute of the 7 J. c. 4. gives power to the justices of peace to send them to the house of correction, which they are thereby required to cause to be erected; and gives power to the master of such house of correction to keep them to work. But even in this particular there are defects: 1. It is not general for all persons, but at most idle and disorderly persons. 2. That description is very uncertain in reference to such persons, and leaves the justices either too great or too little power. 3. For want of a convenient stock to be raised for such houses of correction, and advantageous ways for such work; it either leaves such as are sent, without an employment; or renders their employment ungrateful, in respect of the smallness

ness of the wages ; and rather makes people hate employment as a hell, than to entertain it as a means of a comfortable support. Which tho' it may be well enough as a punishment for disorderly persons that refuse to work, yet it is not applicable to those that are only idle, it may be, because they have no work. 4. It is a difficult thing to determine who shall be said to be an idle person : It is a reasonable answer to that, to say, they are idle for want of such work as they are able to do, or for want of such wages as might give them a reasonable support. For there is no power given, nor is it reasonable it should, to compel persons to set them on work, or to set them on work at convenient wages. 5. And lastly, It is not universal. Many persons are not within that law, which would work if they might, or if they might at reasonable rates whereby they might live. There is need therefore, of some such provision that might be as ample as the occasion ; and without which indeed, all the laws already made are weak and ineffectual to their ends, and the generality of the poor left destitute of a convenient support and provision.

§. 2. *Wherein the defects of those laws are, and the consequences thereof.*

UPON the consideration of the statutes for the poor, the only statute that provides universally, is that of the 43 Eliz. which generally makes two provisions :

First,

First, for the *impotent* poor, that are not able to work. And it is true, it is a good and effectual provision for such, if duly executed. But, as I said before, the *plaster* is not so large as the *fore*. There are many poor that are able to work if they had it, and had it at reasonable wages, whereby they might support themselves and their families, which oftentimes are many. These are not within the provision of the law. And if they come for exhibitions, they are denied; or at least have but very small, and such as cannot support them and their families. And indeed if they should have sufficient exhibition for the support of them and their families, the parishes where they live were not able to supply them in a proportion answerable to their necessities, or answerable to that supply which a full employment would afford them. For instance, a poor man and his wife, tho' able to work, may have four children, two of them possibly able to work; two not able. The father and the mother are not able to maintain themselves and their family, in meat, drink, clothing, and house rent, under 20s a week; and so much they might probably get, if employed. This amounts to 26l a year. If there were forty such families in a great parish, and they lived upon this exhibition, collected by rates; it would arise to above 800l a year: which in many parishes exceeds the yearly value of their lands or rents. Yet when these persons are kept on work, thus much must be gotten by them; and without a supply equivalent to this, they must live by begging, or starve.

Therefore;

Therefore, the *second* provision is, for those poor that are *able to work*. And in reference to them, the statute gives power to raise stocks, by rating the parishioners, and setting the poor on work.

The defects of this provision are,

First, in the *execution* of the law already made. For let any man look over most of the populous parishes in England, indeed there are rates made for the relief of the impotent poor; and it may be the same relief is also given in a narrow measure unto some others, that have great families, and upon this they live miserably and at best from hand to mouth, and if they cannot get work to make out their livelihood, they and their children set up a trade of begging at best. But it is rare to see any provision of a stock, in any parish, for the relief of the poor. And the reasons are principally these: 1. The generality of people that are able, are yet unwilling to exceed the present necessary charge. They do chuse to live for an hour, rather than project for the future. And altho', possibly, trebling their exhibition in one gross sum at the beginning of the year, to raise a stock, might in all probability render their future yearly payments for seven years together less by half or two thirds, than what must be without it; yet they had rather continue on their yearly payments, year after year, tho' it exhaust them in time, and make the poor nothing the better at the year's end. 2. Because those places, where there are most poor, consist for the most part of tradesmen, whose estates lie principally in their stocks, which they will not endure to be searched into to make

L. them

them contributory to raise any considerable stock for the poor, nor indeed so much as to the ordinary contributions. But they lay all the rates to the poor upon the rents of lands and houses; which alone, without the help of the stocks, are not able to raise a stock for the poor, altho' it is very plain, that stocks are as well by law rateable as lands, both to the relief, and raising a stock for the poor. 3. Because the churchwardens and overseers, to whom this power is given, are inhabitants of the same parish, and are either unwilling to charge themselves, or displease their neighbours in charging more than they needs must towards the poor. And altho' it were to be wished, and hoped, that the justices of peace would be forwardly to enforce them if they might, tho' it may concern them also in point of present profit; yet if they would do any thing herein, they are not empowered to compel the churchwardens and overseers to do it; who most certainly will never go about it, to burden (as they think) themselves, and displease their neighbours, unless some compulsory power were not only lodged by law, but also executed in some that may have a power over them to enforce it, or to do it, if they do it not; and to do it effectually, if they do it either partially, or too sparingly. 4. Because people do not consider the inconvenience that will in time grow to themselves by this neglect, and the benefit that would accrue to them by putting it in practice if they would but have a little patience.

The second defect is in the *law it self*, which is, 1. That there is no power in the justices of peace, or some superintendent power, to compel

## Ch. 6. Lord HALE's scheme!

147

per the raising of a stock, where the churchwardens and overseers neglect it. 2. The act chargeth every parish apart, where it may be they are able to do little towards it; neither would it be so effectual, as if three, four, five, or more contiguous parishes did contribute towards the raising of a stock, proportionable to their poor respectively. 3. There is no power for hiring or erecting a common house or place for their common workhouse; which may be in some respects, and upon some occasions, useful and necessary, as shall be shewn. †

### §. 3. *The remedy propounded.*

THE REMEDIES are,

1. That the justices of the peace, at the quarter sessions, do set out and distribute the parishes in their several counties into several divisions; in each of which there may be a workhouse, for the common use of the respective divisions where-in they are respectively placed, to wit, one, two, three, four, five, or six parishes to a workhouse, according to the greatness or smallness, and accommodation of the several parishes.

2. That at that sessions, the churchwardens and overseers of the poor of the respective parishes, bring in their several rates for the relief of their respective poor, upon oath. And that the said justices do assess three, four, or five yearly payments; to be levied and collected at

---

† This power was afterwards given by the statute of the 9 G. c. 7.

one or two entire sums, within the time prefixed by them, for the raising a stock, to set the poor within those precincts on work, and to build or procure a convenient workhouse for employing the poor (if need be) in it, and for lodging materials, and for instructing children in the trade or work.

3. That there be yearly chosen by the said justices a master for each workhouse, with a convenient salary out of the said stock or the produce thereof, to continue for three years; and two overseers, to see the issuing and return of the said stock, and to take the accounts quarterly or monthly of the master as they shall think fit.

4. That the stock be delivered to the overseers, and by them issued to the master, as there shall be occasion; and that they also, from time to time, receive the produce of the said stock, and the accounts for the same.

5. That at the end of every year, the master and overseers give up their accounts to the two next justices of the peace, at times by them prefixed, and publickly notified to the inhabitants of each precinct, to the end that they may take any exceptions to such accounts, if there be cause.

6. That the master and overseers of every respective workhouse, stand and be incorporate, by the name of master and overseers of their respective precincts, and capable to take in succession by will or otherwise, lands, goods, or money, or other legacies or gifts, for the benefit of the poor within their respective precincts.

7. That

7. That they also be accountable, as well to their respective successors, as to the justices of the peace at their quarter sessions; for the benefit, and produce, and employment, of such gifts and bequests.

8. That they be disabled to grant any lands to them given or bequeathed, for any longer term than one year, and at an improved rent.

9. That if any person that is able to work, and not able to maintain himself, shall refuse to do so; he may be forced thereto, by warrant of two justices of peace, by imprisonment, and moderate correction in such workhouse.

10. If any person employed by the master, shall imbezil, or wilfully prejudice or spoil his work; he shall, upon complaint, and proof thereof by the party grieved, to any justice of peace, and by warrant from him, receive imprisonment or moderate correction, by warrant of such justice.

— These be the heads of that provision, I could wish for the setting the poor on work; which is but an essay, and may receive alterations or additions upon consideration.

The BENEFITS that would come by this method, would be very many and great. I shall set down some of them that occur to me :

1. By incorporating of these workhouses, which are the best kind of hospitals, charitable minded persons would have as it were a pillar whereunto to fasten their charity; which would prevent many difficulties in the faithful administration thereof, and would invite benefactors.



2. Whereas hospitals provide for some few poor impotent people; this would prevent poverty, and in a little tract of time bring up hundreds to be able to gain their livelihoods.

3. Whereas in that state that things are, our populousness, which is the greatest blessing a kingdom can have, becomes the burden of the kingdom, by breeding up whole races and families, and successive generations, in a mere trade of idleness, thieving, begging, and a barbarous kind of life, which must in time prodigiously increase and overgrow the whole face of the kingdom, and eat out the heart of it; this course, within one seven years, alters the whole state of this disorder, and brings people and their children after them into a regular, orderly, and industrious course of life, which will be as natural to them, as now idleness, and begging, and thieving is.

For no person will have need to beg or steal; because he may gain his living better by working.

And no man will be so vain, and indeed hurtful to the publick, as to give to such as beg, and thereby to encourage them, when he is sure they may gain their living by working. And all the laws against vagrants, beggars, and wanderers, will be then effectually put in execution, when we may be sure they may be employed if they will: But till that, the interdicting and punishing of the beggars and givers, seems to me a most unreasonable piece of imprudence, as well as uncharitableness.

4. By this means, the wealth of the nation will be increased, manufactures advanced, and every

every body put into a capacity of eating his own bread. For upon what imaginable account can we think, that we should not be as able to improve our populousness to our wealth, as well as Holland, and Flanders, and Barbadoes, if we had but their industry and orderly management? If it be said, their disposition is more industrious than ours: It is true, in that condition that matters are ordered; but if we had the same industrious education, we should have the same industrious disposition. A man that has been bred up in the trade of begging, will never, unless compelled, fall to industry: And on the other side, it is a wonderful necessity indeed, that shall bring one, bred up in civility and industry, to beg; as is easily observable in many poor places and families.

And were there no other benefit to the kingdom in general, nor to the particular places where such workhouses shall be settled, but this; altho' the stock were wholly lost in four years, it would be an abundant recompence, by the accustoming the poor sort to a civil and industrious course of life, whereby they would soon become, not only not burdensome, but profitable to the kingdom and the places where they live.

5. By this means, there would soon be an improvement of the several manufactures of the kingdom, both for the necessary consumption of the kingdom, and for exportation; whereby our trade outward would exceed our trade inward. Which outward trade is the basis and foundation of all our trade inward. And the excess and overbalance of our trade outward to our trade inward, is the only means, not only to keep our money at home, but to gain an in-

crease of money, and so advanceth the true intrinsic wealth of the kingdom. For as, on the one hand, if our trade outward exceed our trade inward, the excess must of necessity be returned in money or bullion; so, if our trade inward exceed our trade outward, the excess must be made good from hence in money. Which must needs insensibly impoverish the kingdom; and experience makes us know it to be true.

Now the advance of our manufactures would be by this means plainly evident. The woollen manufactures of cloth, the staple commodity of this kingdom, would be more; and these other woollen manufactures, as kerseys, serges, haize, which tho' now confined to several parts of the kingdom, as Devonshire, Norfolk, Colchester; would be by this means diffused over the whole kingdom; and those places, which have little of woollen manufacture, as Lincolnshire, Northamptonshire, and other counties, would soon fall into it. So likewise, knitting of stockings, caps, waistcoats, and the like. Also our linen manufactures, as linen cloth, laces of all sorts, nets, sails, and the like, would become native, and supply the want of the kingdom, and prevent the necessity of importation of linen cloth from Holland and France, of laces from Flanders. And as this trade is in some degree used in Lancashire, Leicestershire, and some other places; so it would be communicated to other places of the kingdom. And it is very considerable, the numbers of poor that would be by this means employed, in dressing of hemp and flax, spinning, weaving, whitening, and the like. And if any shall say, we want the materials, and we want

want those that should instruct the poor in the ordering of them; the answer is at hand: If once the manufacture were begun to be put into a method by this way, all men would quickly sow hemp and flax in some parcels of their tillage; and possibly some lands that were not fit for other tillage would be employed in this. Two acres of hemp and flax in every parish would employ multitudes; which now people neglect to sow, because they have no way to vent or employ it. And for instructors, when once the alarm is abroad of such a design, it will draw over workmen from other foreign parts. And by this means we gained, or at least recovered, the skill of making woollen cloth, from other parts; as appears by undeniable evidence.

And if it shall be said, that this will defraud and straiten us of labourers in our woollen manufactures; there can be no fear of that. For we have poor enough to be employed in both. And it is most certain, that the populousness of the kingdom still increaseth, notwithstanding its great exhaustings by wars, and plagues, and foreign plantations; and consequently the poor will be proportionably increased. So that we may reasonably suppose, that in one seven years, by the blessing of god, the very offspring that will be able and fit to work, of poor families, will be more than double to what they are now; which will continually increase in a kind of geometrical progression, whereby there will be enough for double the employment that is now for them.

§ 6. By the means of these workhouses, there will be an opportunity for one or two persons, skilled  
new

skilled in any manufacture, to instruct twenty in the trades, by common resort, meeting, and daily residence of children and young people there; and there may be opportunity, to teach children to *read*, without any interruption in the employments of them that are able to teach them, or of them that are able to work.

7. By this means, the yearly contributions for the necessary relief of poor persons that are able to work, and their families, and those kinds of contributions which in time will be impossible to support the poor, will be changed into a supply every way more easy for them that are to pay, tho' at first it may require a more liberal assistance for the raising of the stocks, and every way more beneficial and advantageous for the poor; first, because they will hereby be educated and inured to a way of civility and industry. Secondly, they will gain a trade, which will go along with them as the constant support of their lives. Thirdly, the wages that they will gain will be a greater and better support, than they can have by any contributions that are able to be assessed for them. For they may be able to gain two, three, four, five, and six shillings a week, for every person able to work; which is five times more than their weekly or yearly contributions do or can amount unto, without exhausting more than the revenues of the parishes wherein these poor are in many places.

And this shall be demonstrated to the eye of any that will consider this instance, which I have exactly tried, and examined, and found to be true:

The

The ordinary process, and time, and charge of making a common coarse medley cloth of our Gloucestershire wool, at this day, is as follows.

In every such cloth, of about 32 yards long, there are 90 pounds of wool, which cost at this day, at 12d a pound, 4l. 10s. viz. ordinary in a grey cloth.

|                                     | l  | s  | d      |
|-------------------------------------|----|----|--------|
| 54 lb of Abb                        | 4  | 10 | 0      |
| 34 lb of Warp                       |    |    |        |
| 2 lb of mixture                     |    |    |        |
| The charge of making this cloth :   |    |    |        |
| Parting and picking                 | —  | —  | 0 3 0  |
| Colouring                           | —  | —  | 0 16 0 |
| Breaking and spinning the Abb,      |    |    |        |
| at two pence farthing per lb        | —  | —  | 1 7 9  |
| Breaking and spinning the Warp,     |    |    |        |
| at 5d per lb                        | —  | —  | 0 18 6 |
| Cards and oyl                       | —  | —  | 1 0 0  |
| Weaving, spooling, and warping      | —  | —  | 1 1 3  |
| Milling and burling                 | —  | —  | 0 12 0 |
| Shearing and dressing               | —  | —  | 0 18 0 |
| Drawing                             | —  | —  | 0 1 6  |
| Carriage and factorage              | —  | —  | 0 7 0  |
| So the whole charge comes to        | 11 | 15 | 0      |
| Out of which, deducting the ma-     |    |    |        |
| terials of wool, and cards, and oyl | 5  | 10 | 0      |

There remains entirely for the expence of work 6 5 0

It is true at this day, this cloth yields not above 12l to be sold; which is only 5s profit; but when trade is quicker, it may yield 13l or more.

The

The people that are employed in bringing about this cloth to be ready, are fourteen; viz. three weavers and spoolers, two breakers, six spinners, one fuller and burler, one sheerman, one parter and picker. The weavers supply the office of spooler and warper.

These will bring about the first cloth in about two months space. But being continued in a constant track, the cloth will be brought about in three weeks time; for all the other workmen are at work, and fit the cloth for the weaver in that space that he is weaving the first cloth.

Consequently, this one loom, thus employed all the year round, allowing two months to the first cloth, and three weeks to every other, will make fourteen returns the first year of cloth ready for sale, and sixteen returns every year after.

Consequently, that which this yields for bare wages to these fourteen poor workmen for the first year is eighty seven pounds ten shillings, and for the following years is ninety seven pounds. And by this computation it is easy to see, what every workman can gain a week being full employed.

About one hundred pounds stock will for ever keep this loom's work going, and maintain these fourteen workmen; and consequently a stock of four hundred pounds will keep on foot four looms work, and keep on work fifty six persons; and be able to abide the ordinary delays of sale, incident to the markets.

But if it could be supposed, that the cloth could be sold as soon as made (which is not, I confess, reasonably to be expected) then a stock  
of

of four and twenty pounds would by its continual return provide materials, and pay the workmen for one loom's work in perpetuity. But because the returns by sale cannot be as speedy, as the work is done, the stock must be near 100l to abide the delay of a month, two, three, four, or more, in point of sale, and likewise to buy wool seasonably for work.

And by this it appears, that altho' one hundred pounds stock, by its sixteen returns, yields but an inconsiderable advantage to the master at five shillings per cloth; to wit, but four pounds in the year; yet it yields a considerable advantage to the poor workers, viz. near one hundred pounds per annum. And consequently a stock of four hundred pounds yields near four hundred pounds per annum.

And consequently, these fifty six poor people, that are kept on work with this stock of four hundred pounds, could not live better, if the parish were at the yearly pension of four hundred pounds per annum to relieve them; nor indeed so well, considering they are by this means kept in a way of employment and honest industry. And yet without some supply; either by wages, or contribution; these fifty six poor people, being destitute of wages or contributions, to this value or near it, must live by stealing or begging; or starve.

And let it be also considered, that this stock thus raised and set going, maintains it self by a perpetual circulation and vicissitude; without any considerable help by any farther supply; and yet perpetually countervails a contribution of near four hundred pounds per annum, for the relief of these fifty six poor persons.

By



By all which it will appear, that the advantage of a stock employed, and once set on foot, doth countervail a great contribution, and indeed greater than can be raised and yearly continued by most places, and will at least in time render those yearly constant contributions lower and less needful.

8. But yet farther. By this means there will be a reasonable gage set to wages of workmen. It is not unknown, how that some covetous masters in hard times, if they are well stocked and of abilities, will set on work many poor, but they must take such wages as they are not able to live upon, and that also many times paid in corn, wool, cheese, and other things, at rates high enough. And indeed if they will work upon these terms, they may; but if not, they turn them off, or not employ them; and thereupon, the poor workmen, not being able to live without work, and having no place to resort to for any, are under a necessity of working to them at inconsiderable rates. And such masters make greater advantage by this means, when trade is low, than when it is open. But by this means there would be a refuge for the poor to be employed at reasonable wages. And the reason is evident; because this being but an expedient, not so much for gain to the master, as for employment for the poor; as long as the stock makes but good it self; or be managed without considerable loss, it attains its end, and therefore may give competent wages. But on the other hand, the trading master looks for his profit; and if his stock turns not to him for gain, he gives over, or reduces the workmen to inconsiderable

derable wages, that his own gain may be the greater. And altho' it may be, there be some honest minded and charitable masters, that will be content for some time to employ their stock tho' without gain; yet they are but rare to be found, and such as commonly hold not out long unless they find profit, tho' perchance they suffer no loss.

——— Thus far this very judicious and sensible author. He then proceeds to answer some objections that might be made against this proposal; which being of no great weight, are here omitted. And he concludes thus:

And thus I have hastily and cursorily gone thro' the method, reasons, and objections of this proposal; which, I am sure, if it can be brought to a due accomplishment, is,

I. A work of great humanity, and such as we owe to those of our own nature as we are men. The wise God did tell his ancient people, that the poor should be always among them; which was, first, to exercise their liberality and charity in supplying the wants of some, by the abundance of others; and, secondly, to exercise their discretion and industry, to think of and set on foot such means as might put them in a course of honest employment, and encourage them in it. They that are rich are stewards of their wealth, and they that are wise, are stewards of their wisdom, unto that great master of the family of heaven and earth, to whom they must give an account of both; and one, I am sure, of the best accounts they can give of both is, to employ them in the reformation and relief of those, that want both, or either. Am I my brother's

brother's keeper—was the answer of one of the worst of men.

2. A work that as well becomes a christian as any; christianity recommending charity, as one of the principal christian virtues. And indeed the ill provision for the poor in England, is one of the greatest reproaches to us in relation to our christian profession.

3. A work for a good English man. The want of a due provision for education and relief of the poor in a way of industry, is that which fills the gaols with malefactors, and fills the kingdom with idle and unprofitable persons, that consume the stock of the kingdom without improving it, and that will daily increase even to a desolation in time. And this error in the first concoction is never remediable but by gibbets and whipping. But there must be a sound, prudent, and resolved method, for an industrious education of the poor; and that will give better remedy against these corruptions, than the after gain of penalties can.

## II.

### Sir JOSIAH CHILD's scheme.

**T**HE next scheme is that of Sir *Josiah Child*, who proposes to abolish all settlements, and receive every poor person that comes, under the direction of societies to be instituted, within large districts.

In

In his discourse upon trade, written in the reign of king Charles the second, in the chapter "Concerning the relief and employment of the "poor", his words are these:

In the discourse of this subject, I shall first assert some particulars, which I think are agreed by common consent; and from thence take occasion to proceed to what is more doubtful.

1. That our poor in England have always been in a most sad and wretched condition, some famished for want of bread, others starved with cold and nakedness, and many whole families in all the out-parts of cities and great towns, commonly remain in a languishing, nasty, and useless condition, uncomfortable to themselves, and unprofitable to the kingdom,—this is confessed and lamented by all men.

2. That the children of our poor, bred up in beggary and idleness, do by that means become unhealthy, and more than ordinarily subject to loathsome diseases, of which very many die in their tender age; and if any of them do arrive to years and strength, they are, by their idle habits contracted in their youth, rendered for ever after indisposed to labour, and serve but to stock the kingdom with thieves and beggars.

3. That if our impotent poor were provided for, and those of both sexes and all ages that can do any work of any kind employed; it would redound some hundreds of thousands of pounds *per annum* to the publick advantage.

4. That it is our duty to god and nature, so to provide for, and employ the poor.

5. That by so doing, one of the great sins, for which this land ought to mourn, would be removed.

6. That our forefathers had pious intentions towards this good work, as appears by many statutes made by them to this purpose.

7. That there are places in the world, wherein the poor are so provided for and employed; as in Holland, Hamborough, New England, and others, and (as I am informed) now in the city of Paris.

Thus far we all agree. The

1<sup>st</sup> *Question* then that naturally occurs is, How comes it to pass, that in England we do not, nor ever did, comfortably maintain and employ our poor?

The common answers to this question, are two: First, That our laws to this purpose are as good as any in the world, but we fail in the execution. Secondly, That formerly, in the days of our pious ancestors the work was done; but now charity is decreased, and that is the reason we see the poor so neglected as now they are.

In both which answers, I humbly conceive, the effect is mistaken for the cause. For tho' it cannot be denied, but there has been, and is, a great failure in the execution of those statutes which relate to the poor; yet, I say, the cause of that failure has been occasioned, by defect of the laws themselves.

For otherwise, what is the reason, that in our late times of confusion and alteration, wherein almost every party in the nation, at one time or other took their turn at the helm, and all  
had

had that compass, those laws, to steer by; that none of them could, or ever did, conduct the poor into a harbour of security to them, and profit to the kingdom; that is, none sufficiently maintained the impotent, and employed the indigent amongst us. And if this was never done in any age, nor by any sort of men whatsoever in this kingdom, who had the use of those laws now force; it seems to me a very strong argument, that it never could, nor ever will be done by those laws, and that consequently the defect lies in the laws themselves, not in the men, that is, those that should put them in execution.

As to the second answer to the aforesaid question, wherein want of charity is assigned for another cause why the poor are now so much neglected; I think it is a scandalous ungrounded accusation of our cotemporaries. For most that I converse with, are not so much troubled to part with their money, as how to place it, that it may do good, and no hurt to the kingdom. For if they give to the beggars in the streets, or at their doors; they fear they may do hurt, by encouraging that lazy unprofitable kind of life. And if they give more than their proportions in their respective parishes; that, they say, is but giving to the rich: for the poor are not set on work thereby, nor have the more given them; but only their rich neighbours pay the less. And of what was given in churches to the visited poor †, and to such as were impoverish-

---

† i. e. as it seemeth, visited by the plague in 1665.

ed by the fire, we have heard of so many and great abuses of that kind of charity, that most men are under sad discouragements in relation thereto.

I write not this to divert any man from works of charity in any kind. He that gives to any in want, does well; but he that gives to employ and educate the poor, so as to render them useful to the kingdom, in my judgment does better.

But, to prove that the want of charity that now is, and always has been, in relation to the poor, proceeds from a defect in our laws; ask any charitable minded man, as he goes along the streets of London, viewing the poor, to wit, boys, girls, men and women of all ages, and many in good health and able in body,——why he and others do not take care for the setting those poor creatures on work? Will he not readily answer, that he wishes heartily it could be done; tho' it cost him a great part of his estate; but he is but one man, and can do nothing towards it; giving them money, as hath been said, being but to bring them into a liking and continuance in that way. The

*2d Question* then is, Wherein lies the defect of our present laws relating to the poor? I answer, that there may be many; but I shall here take notice of one only, which I think to be fundamental, and which unaltered, the poor in England can never well be provided for, or employed; and that when the said fundamental error is well amended, it is almost impossible they should lack either work or maintenance.

The

The said radical error I esteem to be, the leaving it to the care of every parish to maintain their own poor only. Upon which follows the shifting off, sending or whipping back, the poor wanderers to the place of their birth, or last abode; the practice of which I have seen many years in London, to signify as much as ever it will signify, which is just nothing of good to the kingdom in general, or the poor of it in particular, tho' it be sometimes by accident to some of them a punishment without effect; I say without effect, because it reforms not the party, nor disposes the minds of others to obedience, which are the true ends of all punishment.

As for instance, a poor silly person, that will not work, or that no body will employ in the country, comes up to London to set up the trade of begging. Such a person probably may beg up and down the streets seven years, it may be seven and twenty, before any body asks why she does so. And if at length she has the ill hap in some parish, to meet with a more vigilant beadle than one in twenty of them are; all he does, is but to lead her the length of five or six houses into another parish, and then concludes, as his masters the parishioners do, that he has done the part of a most diligent officer. But suppose he should yet go further to the end of his line, which is the end of the law, and the perfect execution of his office; that is, suppose he should carry this poor wretch to a justice of the peace, and he should order the delinquent to be whipt and sent from parish to parish, to the place of her birth or last abode, which not one justice in twenty, thro' pity or other cause, will do; even



this is a great charge upon the country, and yet the business of the nation itself wholly undone. For no sooner does the delinquent arrive at the place assigned, but for shame or idleness she presently deserts it, and wanders directly back, or some other way, hoping for better fortune; whilst the parish to which she is sent, knowing her to be lazy, and perhaps of worse qualities, is as willing to be rid of her, as she is to be gone from thence.

But if it be retorted upon me, that by my own confession, much of this mischief happens by the ill execution of the laws; I say, better execution than you have seen, you must not expect; and there never was a good law made that was not well executed, the fault of the law causing a failure of execution; it being natural to all men to use the remedy next at hand, and rest satisfied with shifting the evil from their own doors; which in regard they can so easily do, by threatening or thrusting a poor body out of the verge of their own parish, it is unreasonable and in vain to hope that it ever will be otherwise.

As for the laws against inmates, and empowering the parishioners to take security before they suffer any poor person to inhabit amongst them; it may be they were prudent constitutions at the times they were made, and before England was a place of trade, and may be so still in some countries; but I am sure in cities and great towns of trade they are altogether improper, and contrary to the practice of other cities and trading towns abroad; the riches of a city, as of a nation, consisting in the multitude of inhabitants;

and if so, you must allow inmates, or have a city of cottages. And if a right course be taken for the sustentation of the poor, and setting them on work; you need invent no stratagems to keep them out, but rather to bring them in. For the resort of poor to a city or nation well managed, is in effect the conflux of riches to that city or nation. And therefore the subtle Dutch receive, and relieve or employ all that come to them, not enquiring what nation, much less what parish they are of. The

*3d Question* is, If the defect be in our laws, how shall we find a remedy that may be rational and consistent? This, I confess, is a hard and difficult question; it is one of the *ardua regni*, and may very well deserve the most deliberate consideration of our wisest counsellors. And if a whole session of parliament were employed on this singular concern, I think it would be time spent as much to the glory of God and good of this nation, as in any thing that noble and worthy patriots can be engaged in. — But seeing I have adventured thus far, I shall humbly proceed to offer some general proposals, that have a tendency towards the effecting this great work; which being seriously thought of, and debated by wiser men, may be capable of such melioration as may render them in a great measure effectual to the kingdom in general; altho' at present, to prevent that common objection, that great mutations are dangerous, I shall only propose them to be experimented in that part of the kingdom, which is the vital part of our body politick; which being once made sound, the cure of the rest will not be difficult.

1. Then, I propose, that the cities of London and Westminster, and borough of Southwark, and all other places within the bills of mortality, may by act of parliament be associated into one province or line of communication for relief of the poor.

2. That there be one assembly of men, and such as they shall from time to time appoint and depute, intrusted with the care for, and treasure of all the poor, within the said pale or line of communication.

3. That the said assembly be incorporated by act of parliament, with perpetual succession, by the name of fathers of the poor, or some other honourable and significant title.

4. That all constables, churchwardens, overseers, or other officers, in all parishes within the said line, be subordinate and accountable to the said fathers of the poor, and their deputies, for and in all things relating to the poor.

5. That the said fathers of the poor may have liberty to assess, and receive into common treasury, for relief of their poor, so much money from every parish, as they yearly paid to that purpose any of the three years preceeding this constitution, and to compel the payment of it, but not of more.

6. That the said fathers of the poor and their deputies, may have very large and sufficient power in all things relating to the poor, and particularly to have and receive the charitable benevolence of all persons, once every lord's day, in every parish church, and in any other meeting of pious christians, and at any other time or times which they shall think fit.

7. That

7. That the said fathers of the poor, and such as they shall authorize, may have power to purchase lands, erect and endow workhouses, hospitals, and houses of correction, and to exercise all other powers relating to the poor, that any number of justices of the peace now may do, in their quarter sessions or otherwise.

8. That the said fathers of the poor may have power to send such poor beyond the seas, as they shall think fit into his majesty's plantations, taking security for their comfortable maintenance during their service, and for their freedom afterwards.

9. That the said fathers of the poor may have power to erect petty banks and lumbards for the benefit of the poor, if they should find it convenient; and also to receive the one half of what is paid at all the doors of playhouses, and have the patent for farthings; and to do whatever else his majesty and the parliament shall think fit to recommend to them, or leave to their discretion.

10. That the treasure that shall be collected for this purpose be accounted sacred, and that it be felony to misapply, conceal, lend, or convert it to any other use or purpose whatsoever.

11. That there be no oaths, or other tests, imposed upon the said fathers of the poor, at their admission, to shut out the dissenters.

12. That the said fathers of the poor may constantly wear some honourable medal, besides the green staff which is now used in London to such like purposes, to denote their authority and office, at all times, and in all places.

13. That

13. That the said fathers of the poor may have liberty to admit into their society, and into all powers and privileges equal with them, any persons that are willing to serve god, their king, and country, in this pious and publick work, the persons desiring to be so admitted, paying at their admission 100l or more, into the poor's treasury, as a demonstration of the sincerity of their intentions to labour in and cultivate this most religious vineyard.

14. That the said fathers of the poor, besides the authority now exercised by justices of the peace, may have some less limited powers given them, in relation to the punishment of their own, and of parish officers, by pecuniary mulcts for the poor's benefit, in case of neglect.

15. That the said fathers of the poor may have freedom to set the poor on work, about whatsoever manufacture they think fit, with a *non-obstante* to all patents that have been or shall be granted to any private person or persons for the sole manufacture of any commodity.

16. That all vacancies, by reason of death, of any of the said fathers of the poor, be perpetually supplied by election of the survivors.

The 4th Question is, Who shall be the persons intrusted with so great a work, and such excess of power? This is a question likewise of some difficulty, and the more in regard of our differences in religion. But I shall answer it as well as I can.

In general, I say, they must be such as the people must have ample satisfaction in, or else the whole design will be lost. For if the universality of the people be not satisfied with the persons,

persons, they will never part with their money ; but if they be well satisfied therein, they will be miraculously charitable.——This begets a

*5th Question*, What sort of men the people will be best satisfied with?——I answer, I think in none so well, as such only as a common hall of the liverymen of London shall make choice of. It being evident by the experience of many ages, that the several corporations in London are the best administrators of what is left to charitable uses, that have ever been in this kingdom ; which is manifest in the regular, just, and prudent management of the London hospitals.

But here it may be objected, that country gentlemen, who have power in places of their residence, and pay out of their large estates considerable sums towards the maintenance of their poor within the afore-limited precincts, may be justly offended if they likewise have not a share in the distribution of what shall be raised to that purpose.——I answer, The force of this objection may be much taken off, if the city be obliged to chuse but a certain number out of the city, as suppose seventy for London, ten out of Southwark for that borough, twenty for Westminster : This would best satisfy the people, and I think do the work. But if it be thought too much for the city to have the choice of any more than their own seventy, the justices of peace in their quarter sessions may appoint their own number of persons to assist for their respective jurisdictions, and so to supply vacancies in case of death or otherwise. But all must be conjunctive, but one body politick, or the work will never be done.

The

The 6th Question is, What will be the advantage to the kingdom in general, and to the poor in particular, that will accrue by such a society of men, more than is enjoyed by the laws at present?—I answer, Innumerable and unspeakable are the benefits to this kingdom that will arise, from the consultations and debates of such a wise and honest council, who being men so elected as aforesaid, will certainly conscientiously study and labour to discharge their trust in this service of god, their king, and country.

The poor, of what quality soever, as soon as they are met with, will be immediately relieved, or set on work, where they are found; without hurrying them from place to place, and torturing their bodies to no purpose.

Charitable minded men will know certainly, where to dispose of their charity; so as it may be employed to right purposes.

Housekeepers will be freed from the intolerable incumbrance of beggars at their doors.

The plantations will be regularly supplied with servants, and those that are sent thither well provided for.

The said assembly will doubtless appoint some of their own members to visit and relieve such as are sick, as often as there shall be occasion; together with poor labouring families both in city and suburbs.

Poor children will be instructed in learning and arts, and thereby rendered serviceable to their country; and many other worthy acts done for the publick good, by the joint deliberation of so many prudent and pious men, assisted with

such a power and purse, more than can be foreseen or expressed by a private person.

The 7<sup>th</sup> Question may be, What shall all the poor of these cities and countries, being very numerous; be employed about?—The question will be answered best by the said assembly themselves, when they have met and consulted together; who cannot be presumed deficient of invention to set all the poor on work; especially since they may easily have admirable precedents from the practice of Holland in this particular, and have already very good ones of their own, in the orders of their hospitals of Christ-Church and Bridewell in London.—The girls may be employed in mending the cloaths of the aged, in carding, spinning, and other linen manufactures, and many in sewing linen for the Exchange, or any housekeepers that will put out linen to the matrons that have the government of them. The boys, in picking oakum, making pins, rasping wood, making hangings, or any other manufacture of any kind; which whether it turns to present profit or not, is not much material; the great business of the nation being first but to keep the poor from begging and starving, and enuring such as are able to labour and discipline, that they may be hereafter useful members to the kingdom. But to conclude, I say the wisest man living by himself cannot propose or imagine such excellent ways and methods as will be invented by the united wisdom of so grave an assembly.

If it be here objected to the whole purpose of this treatise, that this work may as well be done in distinct parishes, if all parishes were obliged



obliged to build workhouses, and employ their poor therein, as Dorchester and some others have done with good success :—I answer, that such attempts have been made in many places to my knowledge, with very good intents and strenuous endeavours ; but all that ever I heard of, proved vain and ineffectual, except that single instance of the town of Dorchester ; which yet signifies nothing in relation to the kingdom in general, because all other places cannot do the like : Nor does the town of Dorchester entertain any but their own poor only, and whip away all others ; whereas that which I design is, to propose such a foundation, as shall be large, wise, honest, and rich enough, to maintain and employ all poor that come within the pale of their communication, without inquiring where they were born, or last inhabited ; which I dare affirm, with submission, that nothing but a national, or at least such a provincial purse can so well do ; nor any persons in this kingdom, but such only as shall be picked out by popular election, for the reason before alledged, *viz.* that in my opinion three fourths at least of the stock must issue from the charity of the people ; as I doubt not but it will, to a greater proportion, if they be satisfied in the managers of it ; but if otherwise, not the fortieth, I might say, not the hundredth part.

## III.

Mr. C A R Y 's.

**T**HE next proposal that hath occurred, is in an "Essay towards regulating the trade, and employing the poor of this kingdom". Written about the year 1700. By John Cary, Esquire.

Having gone thro' the state of the nation with respect to its trade; he proceeds to consider it with respect to the poor, as follows:

"It cannot but seem strange, that this kingdom, which so much abounds in product and manufactures, besides the employment given in navigation, should want work for any of its people. The Dutch, who have little of the two former, and do not exceed us in the latter, suffer no beggars. Whereas we, whose wealth consists in the labour of our inhabitants, seem to encourage them in an idle way of living, contrary to their own and the nation's interest.

The curse under which man first fell, was labour; that by the sweat of his brow he should eat his bread. This is a state of happiness, if compared to that which attends idleness. He that walks the streets of London, and observes the fatigues used by the beggars to make themselves seem objects of charity, must conclude, that they take more pains than an honest man doth at his trade, and yet seem not to get bread to eat. Beggary is now become an art or mystery,

mystery, to which children are brought up from their cradles. Any thing that may move compassion is made a livelihood; a fore leg or arm, or for want thereof, a pretended one. The tricks and devices I have observed to be used by these people, have often made me think, that those parts, if better employed, might be made useful to the nation.

Here I will consider,

1. What hath been the cause of this mischief of idleness, and how it hath crept in upon us.
2. What must be done, to restrain its going farther.
3. What methods are proper to be used, in order to make a provision for those who are past their labour.

As to the First; we shall find, that it hath proceeded, partly from the abuse of those laws we have, and partly from want of better.—Licences for alehouses, were at first granted for good ends, not to draw men aside from their labour by games and sports, but to support and refresh them under it. Whereas alehouses are now encouraged, to promote the income of excise; not considering withal, that the labour of each man, if well employed, whilst he sits in an alehouse, would be worth much more to the nation, than the excise he pays.

But above all, our laws to set the poor at work are short and defective, tending rather to maintain them so, than to raise them to a better way of living. 'Tis true, those laws design well; but consisting only in generals, and not reducing things to practicable methods, they fall

fall short of answering their ends, and thereby render the poor more bold, when they know the parish officers are bound, either to provide them work, or to give them maintenance.

Now, if we delighted more in the encouraging our manufactures, our poor might be better employed; and then it would be a shame, for any person capable of labour, to live idle. Which leads me to the

Second consideration, What must be done to restrain this habit of idleness from going farther. — Here I find, that nothing but good laws can do it; such as may provide work for those who are willing, and force them to work that are able. And for this use I think workhouses very expedient; but they must be founded on such principles, as may employ the poor; for which they must be fitted, and the poor for them. Wherein employments must be provided for all sorts of people; who must also be compelled to go thither when sent, and the workhouses to receive them. And the materials which seem most proper for them, are simples; such as wool, hemp, cotton, and the like, which may either be sent in by the manufacturers, or be bought up on a stock raised for that end. These will employ great numbers, of both sexes, and all ages; either by beating and fitting the hemp, or by dressing and spinning the flax, or by carding and spinning the wool and cotton, of different finenesses. And if a reward was given to that person who should spin the finest thread of either, as they do in Ireland for their linen, to be adjudged yearly, and paid by the county, or by any other manner as shall be thought fit; it

N

would

would very much promote industry and ingenuity, whilst every one being stirred up by ambition, and hopes of profit, would endeavour to exceed the rest: By which means we should also grow more excellent in our manufactures.

Not should these houses hinder any who desire to work at home, or the manufacturers from employing them; the design being to provide places for those who care not to work any where, and to make the parish officers more industrious to find them out, when they know whither to send them; by which means, they would be better able to maintain the impotent.

It seems also convenient, that these work-houses, when settled in cities and great towns, should not only be parochial, but one or more in each place, as will best suit it. Which would prevent the poor being sent from parish to parish, and provided for no where. And when once the poor shall come by use to be in love with labour, it will be strange to see an idle person.

There are other things which will employ the poor besides our manufactures, and are also equally beneficial to the nation; such as navigation, husbandry, and handicrafts. Here, if these or such like rules were observed, they might be made more advantageous to all.

As first, let the justices have power to assign youth to artificers, husbandry, manufacturers, and mariners, and to bind them apprentices for a time certain, at such ages as they shall think them fit to go on those employments; who should be also obliged to receive them.

And

And as for those of elder years, who will rather beg than work; let them be forced to serve the king in his fleet, or the merchants on board their ships: The sea is very good to cure fore legs and arms, especially such as are counterfeits; against which, the capstern, with the taunts of the sailors, is a certain remedy.

Let masters of ships be obliged to carry with them some landmen every voyage; which will increase our seamen. And let the justices have power to force them to receive such as are willing to enter themselves, and to settle the rates of their wages.

Let young people be prohibited from hawking about the streets, and from singing ballads; if these things be allowed, they are fitter for age.

Stage plays, lotteries, and gaming houses, should be strictly looked after. Youth, in this age of idleness and luxury, being not only drawn aside by them, but also more willing to put themselves on such easy ways of living, than on labour.

These and such like methods, being improved by the wisdom of parliament, may tend, not only to the introducing a habit of virtue amongst us, but also to the making multitudes of people serviceable, who are now useless to the nation; there being scarce any one, who is not capable of doing something towards his maintenance; and what his labour doth fall short, must be made up by charity; but as things now are, no man knows where it is rightly placed; by which means, those who are truly objects do not partake thereof. And let it be considered, that if

every person did by his labour add one half-penny a day to the publick; it would bring in seven millions six hundred and four thousand one hundred and sixty six pounds thirteen shillings and four pence a year (accounting ten millions of people to be in the kingdom); so vast a sum may be raised from a multitude, if every one adds a little.

The third consideration is, what methods must be used to provide for those, who either are not able to work, or whose labour cannot support their charge. — Here I take almshouses to be good gifts, where they are designed to relieve old age, or educate youth; not to maintain idle beggars, or ease rich parishes; but to provide for those, who have been bred up in careful employments, tho' not able to stem the current of cross fortunes.

Another way to provide for those who are true objects of charity is, by taking care that the poor rates be made with more equality in cities and great towns; where the greatest number of poor, usually residing together in the suburbs, or out-parishes, are very serviceable by their labour to the rich, in carrying on their trades; yet when age, sickness, or a numerous family, make them desire relief, their chief dependence must be on people but one step above their own conditions. By which means these out-parishes are more burdened in their payments, than the in-parishes are, tho' much richer.

And that a better provision may be made for the relief of sailors in particular; let a small deduction be made from the freights of ships,  
and

and from seamens wages, to be collected by a society of honest men in every sea port. This, with what additions might be made by the gifts of worthy benefactors, would be sufficient to raise a fund, to maintain them in their old age, who in their youths were our walls and bulwarks. But it must be settled by law, and no man left at his liberty whether he will pay or no. These are generally the most laborious people that we have; I do not mean those scoundrel fellows, who often creep in under that name; but the true sailor, who can turn his hand to any thing rather than begging."

From these, and such like considerations (the author says) an act of parliament for establishing a workhouse in the city of Bristol, was drawn up and passed in the 7 & 8 *Will. & Mary*; which act he inserts at large; and is formed pretty much upon the plan proposed by Sir Josiah Child, for the cities of London and Westminster, and other places within the bills of mortality. And from this, other acts, for many other places, have taken their frame. And this act at Bristol, Mr. Cary says, had very good success; inasmuch that there was not a common beggar, or disorderly vagrant, to be seen in the streets; but charity was given in its proper place and manner; the magistrates were freed from the daily trouble which they had sustained from the poor; and the parishes were discharged from the invidious fatigues of settlements.

"But because this act (as the author proceeds) was adapted only for cities and great towns, and cannot be a model for the counties at large; I will here subjoin such methods as



may be proper to carry on this charitable design throughout the whole kingdom, if power be given by some publick act of parliament for all places to incorporate who are willing, and to build, or otherwise provide hospitals, work-houses, and houses of correction, for the better maintaining and employing their poor, under the management of guardians who shall be a body politick or corporate; which in the counties must be, by uniting one or more hundreds. These guardians to consist of all the justices of the peace inhabiting within the severall parishes thus united; together with a number of inhabitants chosen out of each parish, in proportion to the sum of money it shall pay. Which choice to be made every year, or once in two years, when one half of those that were first chosen must go out, and the remainder to stay in to instruct those who were last chosen; the electors to be freeholders of so much a year; and on the death of any guardian, another to be chosen in his room, by the parish for which he served.

That the guardians being thus settled, they shall have power to chuse a governor, deputy governor, treasurer, and assistants, yearly; and to hold courts, and make by-laws, and have a common seal; to order assessments to be made and levied; to summon the inhabitants to answer to matters relating to the corporation; to compel all people who seek for relief, to dwell in their hospitals and workhouses, if they see fit; to take in young people of both sexes, and breed them up to work, whom they shall also be obliged to teach to read and write, and what else

else shall be thought necessary, and then to bind them out apprentices; to provide for the aged and impotent; to assist those whose labours will not maintain their families; to apprehend rogues, vagabonds, and beggars, and cause them to be set on work; to inflict reasonable correction, where they see it necessary; to entertain proper officers, and pay them out of the stock; with a clause to secure them from vexatious suits."

## IV.

## Mr H A Y 's.

THE next scheme is one intitled "Remarks on the laws relating to the poor, with proposals for their better relief and employment", first published in the year 1735. It appears to have been written by Mr Hay, a member of the house of commons; and has many things in it worthy of observation. His proposals were reduced into the form of an act of parliament, which was brought into the house Mar. 11. 1735; but it did not pass.

The substance of the bill was this:

Each county to be laid out into one or more *districts* by the quarter sessions.

Twelve persons residing in each district, of a certain estate in land, to be *guardians* of the district. Lists of the persons so qualified, residing within the district, to be returned to the quarter sessions, like those of persons qualified to serve on juries; and the names of the guardians to be

drawn like those of jurymen. Six annually to go out of office, the first year by lot; and ever after, the six who had been longest in office; and six new ones to be chosen in the same manner. — Benefactors to be guardians for a time, in proportion to the sum given.

The guardians to be a *corporation*, capable of taking benefactions; to appoint officers; and make by-laws, to be approved by the justices of assize.

To purchase lands in fee, near the middle of the district, with a certain number of acres; and thereon to *build houses* for the use of the poor; the charges of the purchase and building to be paid by money to be given by parliament.

To *furnish* the houses, and provide *stock* to set the poor on work; This to be effected, by money to be given by charitable persons; and what more is wanting, by a rate on the several parishes,

The *work to be continued* by a rate, over and above what the charities shall supply; for which purpose of charity, the overseers (under the direction of the guardians) to set up boxes in all places of divine worship.

After the house is finished and furnished, guardians to give notice to the overseers, to *bring in the poor* of their respective parishes; which they shall do within a month. And for ever after, to convey thither all impotent poor, bastards, and foundling children, wanting relief; as also all the children above three, of such married persons who desire it, and will make oath that they are not worth above 5*l*, besides their goods and apparel. And never,  
for

for the future, to relieve any person out of the house, except on sudden and emergent occasions, as pestilential distempers, sickness, accident, or infirmity, which might endanger the life or health of the person in removing to the workhouse; and during the continuance of such occasions only. — And the justices in sessions to settle the allowance by the mile, for conveying the poor to the workhouse.

And every person to be deemed legally *settled* in any parish or place, where he continued a year without being chargeable; and if he gained no such settlement, then at the place of his birth; and if not born in the kingdom, then where he should happen to want relief.

It must be observed, that several of these regulations varied from Mr Hay's plan; being proposed by others, contrary to his opinion.

Particularly, he would not have the *guardians* chosen by lot, nor by freeholders only (as Mr Cary proposed); but by the occupiers of the land, that is, of all who pay towards the rate.

And he would have all notion of *parochial settlement* abolished. It is certain, he says, that the obligation on each parish to maintain its own poor, and in consequence of that, a distinct interest, are the roots from which every evil relating to the poor hath sprung; and which must ever grow up, till they are eradicated. Every parish is in a state of expensive war with all the rest of the nation; regards the poor of all other places as aliens; and cares not what becomes of them; if it can but banish them from its own society: No good therefore is ever to be expected till  
parochial

parochial interest is destroyed; till the poor are taken out of the hands of the overseers, and put under the management of persons wiser and more disinterested; and till they be set on work on a national, or at least a provincial fund, to arise from benefactions and the labour of the poor, as far as they will go; and what more is wanting, to be levied by an equal tax. The rate, he says, must be equal throughout a county; or else the cure will not be compleat.

Therefore, he thinks, the *county* to be the properest district. The *buildings* in each district, he would have to be, a hospital, a house of correction, and a workhouse; and to be, if not contiguous, yet not far distant; that persons may be commodiously removed from one to the other, as occasion requires. The *benefit* of these large districts, he says, will be; that there will be a wiser and more regular management, from the united counsels of the most considerable persons in them, who will always compose the corporation; and the expence will be naturally less; for when great numbers of poor are together in one place, their provisions, as well as the materials for their work, will be bought in larger quantities together, and consequently cheaper; one common kitchen, one common hall will serve; fewer fires, and fewer officers; all which, and many more articles, must necessarily be multiplied, if they are dispersed into many different habitations. And as the expence of their maintenance will be less, the product of their labour will be greater; since several manufactures cannot be carried on to advantage, but by great numbers of hands together in one place.

## V.

## Mr ALCOCK'S.

THE next is; "Observations on the defects  
" of the poor laws, and on the causes and  
" consequences of the great increase and burden  
" of the poor, with a proposal for redressing  
" these grievances". By Thomas Alcock, M. A.  
Printed in the year 1752.—This author argues  
against the compulsory method of relief, and  
thinks it better to bring back the poor to be  
maintained by voluntary charity, as (it is sup-  
posed) they were before the statute of the 43  
Eliz. Or if that may not be; then he proposes  
a workhouse to be erected in every hundred; to  
consist of three parts, one for the impotent and  
also for the able and industrious poor, the second  
for the sick, and the third for the vagrant and  
idle poor: to be built and furnished at the ex-  
pence of the several parishes, in proportion to  
what they paid at a medium for maintaining  
their poor the last four years. The overseers of  
the respective parishes to be governors thereof  
annually by rotation. And all persons that beg  
or ask relief, to be sent to this house, and im-  
mediately admitted, on an order signed by the  
overseers of the respective parishes. And no  
money, but what passed thro' this house, to be  
charged to the parish by the overseers.

With

With regard to the management of the Dutch in this respect, he says, "The Dutch, one would think, would be troubled with a great number of poor, as their country is so populous, and of so small extent, and doth not afford bread-corn for a tenth of the inhabitants, nor any native commodities to export, or native materials to work up into manufactures, whereby the poor might have employment; and yet we are assured, a beggar is rarely to be seen among them. Their manner of taking care of the poor is, by all that have seen it, commended, and deserves to be imitated. According to the account of an ingenious modern writer, their first care is to provide proper materials and instruments for labour, and set those, that are able, to work; those that are not able, are taken care of in hospitals. And those idle vagrants that are able and not willing to work, are taken up and sent to the *rasphouse*; or other places of labour and correction, and forced to earn their bread before they eat it. For the maintenance of these hospitals, where all the impotent poor are kept, (besides what is given towards them by well-disposed people, and part of the revenues of some secularized monasteries,) they impose several little taxes; as, a penny upon every one that passes thro' the gate after candle-light; upon appointments at taverns and other places, where they have boxes to put in forfeitures for the use of the poor; nay, at every bargain, something is reserved for the same use. To which must be added, what is collected in churches, and weekly by the hospital officers from the inhabitants at their doors. But here is no

no assessment or compulsion ; every one gives as his circumstances enable, or charitable disposition inclines him. He puts his alms with his own hand into a long purse or bag which the collector holds out to him ; so that God only and himself are privy to his alms. But the greatest relief which the poor have, comes from a quarter one could least expect, and yet that can best spare it : The playhouses, mountebanks, and musick booths, pay the third penny ; and in some cities, as Amsterdam, half the money received. At the playhouse in Amsterdam, which does not take in a week so much as one of our playhouses sometimes in a night, 'tis reckoned above 6000l yearly is collected for the use of the poor. In that city alone, there are near twenty one thousand maintained yearly. The gaol-house, or hospital, deserves particular notice : There is no need of recommending : The door stands open to all comers : The Dutch ask no questions, but receive every one there for god's sake ; even young women, who have had a misfortune, are well looked after ; the children put out to nurse, and the mother is no more troubled with them : This they do, not to encourage libertinism, but to prevent murders. The hospital children are so tender in the eye of the government, that when any of them have occasion to travel, the publick track-skuyts, or passage boats, are obliged to carry them gratis. There is another hospital, where all poor travellers, without distinction, are lodged and entertained for three nights, but no longer. There is also in most towns, a society of burghers or tradesmen, who engage to sup-  
port



port one another, on their happening to fail in the world : the fund for this is raised insensibly, by each member's paying a trifle weekly".——  
Which last provision obtains in many parts of England with good effect.

## VI.

A Scheme, intituled, " Considerations on several proposals, lately made, for the better maintenance of the poor". By an anonymous author.

This appears to have been written about the same time with Mr Alcock's plan ; and is by no means a contemptible production, altho' the author hath not thought fit to affix his name to it. He contends for the sufficiency of the present laws as to the main ; and lays the fault principally upon the execution. He argues against leaving the poor to be supported by random charity, for this (amongst other reasons) ; that the system of being maintained by voluntary contributions, having been broken by a disuse of now near 200 years, before it could get into any right train again, thousands would perish, trade would greatly suffer, and such confusion would arise as is not easily foreseen. He thinks the divisions are full large enough already ; because a great multitude is better to be governed, and in every respect more easily to be provided for, by being divided into many subordinate parts, than in great and unwieldy numbers. And observes, that the nation was better governed, and affairs  
in

in general better regulated, when the counties were divided into hundreds, and the hundreds into decennaries; when every man of the decennary was answerable for the rest, and no man might depart from his dwelling without the consent of his fellow pledges.

He proposes, that the counties be divided by the justices in sessions into as many smaller districts as they shall think proper. That the petty constables visit weekly the houses in their respective constablewicks, and set down the names of all the inhabitants and lodgers, with their trades and ways of life, and whether their behaviour be orderly, and their children decently provided for, and set on work; and return the same once a month to the high constables. That the high constables make a return monthly, at a special sessions of the division to be held for that purpose; therein setting forth, the names of the inhabitants and lodgers; the number of publick houses, and the behaviour of the alehousekeepers; and whether gaming of any sort, or other disorders, are practised in those houses; the number of poor in each parish should also be expressed, and an account how they are relieved, and how employed; and what workhouses are already in each division, and what more are wanted; and the like. That the justices of these special sessions be allowed half a guinea a day, to be paid by the county treasurer; high constable, 5s a day; petty constable, 2s 6d weekly; for visiting every week, and making the return once a month.

In

In all this, there will be no innovation (he observes) upon our constitution; but a nearer approach to the spirit and meaning of it, and almost all in the old forms: That in the execution of this plan, the expences will not be great; but, on the contrary, the general savings to the publick will be immense, if by this means the poor can be well employed, and the idle and profligate restrained.

## VII.

### The earl of HILLSBOROUGH'S.

THE next were two schemes, drawn up each in the form of an act of parliament, by two very able persons, viz. the right honourable the earl of Hillsborough, and the late Sir Richard Lloyd: Printed in the year 1753. But neither of them passed into a law.

That of the earl of Hillsborough repeals all the poor laws, and re-enacts (with some alterations) the clauses about appointing overseers, the manner of levying the rate, the ordering of bastard children, binding out apprentices, rendering parents and children mutually liable to maintain each other; but destroys the whole notion of settlements and removals: And proposes, — That in every county there shall be one corporation, consisting of such persons who shall subscribe and pay annually not less than 5*l*, towards the relief of the poor of such county; who shall be called governors of the poor; and who may purchase lands; make by-laws;

laws; appoint officers, with salaries, as clerk, and treasurer; and also a steward to superintend and direct the whole oeconomy, to provide diet, apparel, materials and implements of work, utensils, and furniture, to sell the produce of the work, and to enforce the observation of rules made for order and decency; and may also appoint an apothecary; and a master for the boys, and a matron to instruct the girls in arts and manufacture.

That in every county there be one or more hospitals erected, with convenient ground thereto adjoining, and furnished with materials and implements for work. Persons to be admitted into such hospital to be, the children of parents not able to maintain them, all exposed and deserted children, diseased persons not able to work or provide medicines; idiots, lunatics, lame, old, blind, and other persons, having no means to maintain themselves, and not able to maintain themselves by their labour (and no other kind of poor whatsoever). And none to be admitted but upon the recommendation of a governor. In such hospital, to be three distinct apartments; for the children, the aged, and the diseased: and the boys and girls to lodge and work apart from each other.

Physicians and surgeons who shall attend, to be governors without subscription or payment of any sum.

Also the minister of the parish where the hospital shall be, who shall visit the sick and instruct the poor there in religion, to be a governor without subscribing. And if he be unable or unwilling

ling to perform the office, the governors may appoint a chaplain.

Infants to be tended by such of the aged, as the steward shall appoint; children taught to work, and to read; and as many as are able, to attend divine service in the church on sundays.

Rewards to be given to the industrious; disorders punished: and other particular regulations, judicious, sensible, and humane.

Charges of the building, furniture, and materials, to be paid out of the contributions, and out of such money as may be granted for that purpose by parliament, and further out of an assessment for two years of 3d in the pound each year. And for maintaining the poor admitted into the said hospitals, an assessment to be laid yearly of 6d in the pound: And the profits of any work that may be done in said hospitals to be also added to the revenue of the said hospitals, and applied towards the sustentation thereof.

Besides this, the churchwardens and overseers to make collections in the church on sundays, and from house to house at certain times, and distribute the same, together with other special benefactions, to such as shall have most need, according to their several necessities.

Also the overseers, with leave of the lord of the manor, may inclose and improve commons, not exceeding ten acres a year, for the use and benefit of the poor.

All vagrants, idle and disorderly persons, and persons able to work (and having no means to maintain

maintain themselves otherwise than by their labour, and refusing to work), to be sent to the house of correction of the place where they shall be apprehended, there to be kept to hard labour, for such time and in such manner as shall be thought proper.

## VIII.

## Sir RICHARD LLOYD'S.

**T**HIS scheme reciting, that whereas the education of the children of the poor cannot be so well effected, nor the poor be so comfortably nor at so easy a price maintained, in small numbers, and within distinct families, as in large and well ordered houses set apart for that purpose; therefore proposes, that the justices in sessions shall set out the county into so many districts as they shall think proper; and the justices, and other persons of considerable estate, to be chosen in like manner as jurors, shall be guardians of the poor within the respective districts; and persons contributing a certain sum, to be additional guardians; the same to be a body corporate, make by-laws, and appoint committees; and to appoint a treasurer, and other officers and servants, with convenient salaries. The said guardians to purchase land, and thereon to build a *house of industry*, and other convenient buildings, for lodging and employing the poor within such district; and to provide furniture and materials for work. The expence of the land, buildings, and furniture, to

be defrayed by a lottery, and by voluntary contributions, and (if need be further) by an assessment. The charges for the relief and employment of the poor afterwards, from time to time, to be raised by an assessment on the several parishes, in proportion to the number of poor they send to the said house.—The rest of the poor laws, generally, to stand as they are.

So that the overseers hereby are not obliged to send all their poor to such house, but only to pay for those they do send; others, not so fit to be removed thither, as in case of sickness, or otherwise, wanting only occasional relief, may be sustained at home out of the poor rate as before. In lord Hillsborough's scheme, this kind of relief on sudden emergencies, or accidental cause, seems to rest upon voluntary contributions only.

## IX.

### Mr FIELDING'S.

**T**HE next is that of the late Henry Fielding, esquire, intitled "A proposal for making an effectual provision for the poor, for amending their morals, and for rendering them useful members of the society." To which is annexed a plan of the buildings proposed. Printed in the year 1753.

This discourse abounds with that strong sense and energy of expression, of which that author was happily possessed. It seems intended as supplementary to the two last mentioned schemes.

— Speaking of the necessity of some regulation, he says,— “ That the poor are a very great burden, and even a nuisance to the kingdom; that the laws for relieving their distresses, and restraining their vices, have not answered their purposes; and that they are at present very ill provided for, and much worse governed; are truths, which every man will acknowledge. Every person, who hath any property, must feel the weight of that tax, which is levied for the use of the poor; and every person, who hath any understanding, must see how absurdly it is applied. So very useless indeed is this heavy tax, and so wretched its disposition, that it is a question whether the poor or rich are actually more dissatisfied, or have indeed greater reason to be dissatisfied; since the plunder of the one serves so little to the real advantage of the other: For while a million yearly is raised among the rich, many of the poor are starved; many more languish in want and misery; of the rest, numbers are found begging or pilfering in the streets to day, and to morrow are locked up in gaols and Bridewells. If we were to make a progress thro’ the outskirts of the metropolis, and look into the habitations of the poor; we should there behold such pictures of human misery, as must move the compassion of every heart that deserves the name of human. What indeed must be his composition, who could see whole families in want of every necessary of life, oppressed with hunger, cold, nakedness, and filth, and with diseases, the certain consequence of all these? The *sufferings* indeed of the poor are less known, than their *misdeeds*; and therefore we are less apt



to pity them. They starve, and freeze, and rot, among themselves; but they beg, and steal, and rob among their betters. There is not a parish in the liberty of Westminster, which doth not raise thousands annually for the poor; and there is not a street in that liberty, which doth not swarm all day with beggars, and all night with thieves."

He proposes a plan for the county of Middlesex; which, if successful, might be followed in other counties. For, he thinks, no division less than a whole county, would so well answer the intention.

That there be a large building erected, consisting of three several courts; the two outermost of the said courts to be called the *county house*, and the innermost court to be called the *county house of correction*; with a chapel, and offices.

That both the said houses shall be so contrived, that the men and women may be kept entirely separate from each other.

That the said *county house* shall consist, of lodgings for the officers, of lodging rooms for the labourers, of working rooms for the labourers, of an infirmary, of a chapel, and of several large store rooms, with cellarage.

That the said *county house of correction* shall consist, of lodgings for the officers, of lodging rooms for the prisoners, of working rooms for the prisoners, of an infirmary, of a fasting room, of several cells or dungeons, of a large room with iron grates which shall be contiguous to and look into the end of the chapel.

Speaking

Speaking of the *fasting room*, he observes, that scarce any will be committed to this house of correction, who would not by the law as it now stands have been committed to Bridewell, where the allowance is no more than a penny loaf a day, with water. To be confined therefore with such sustenance for twenty four hours, cannot be well thought a severe punishment. The particular reason, he says, why he inserts it here, is, that the party, before he be let loose among the other prisoners, should be perfectly cool; which is seldom the case, when profligate persons are brought before the justice, and by him committed to the house of correction. And if at the expiration of that term, the prisoner should still retain any signs of outrageous reprobacy; it will be much more proper to confine him by himself, than to suffer him to infect those who may possibly have made some advancement in their cure. And indeed there can be no more effectual means of bringing most abandoned profligates to reason and order, than those of solitude and fasting; which latter especially is often as useful to a diseased mind, as to a distempered body. To say truth, this is a very wholesome punishment, and is not liable to those ill consequences which are produced by punishments attended with shame. For by once inflicting shame on a criminal, we for ever remove that fear of it, which is one very strong preservative against doing evil. Indeed, however this may have been admitted into the punishments of all countries, it seems (he says) to contain in it no less absurdity, than that of

taking away from the party all sense of honour, in order to make him a good man.

He further proposes, that there shall be likewise built one house for the governor, one for the deputy governor, one for the chaplain, one for the treasurer, and one other for the receiver general of the said house; and that likewise there shall be built on each side of the county house, nine houses for providing the labourers and prisoners with the necessaries of life.

That the working-rooms in the county house, be furnished with all kinds of implements and tools, for carrying on such manufactures as shall from time to time be introduced into the said house.

That the working rooms in the county house of correction, be provided with implements for beating hemp, chopping rags, and for other of the hardest and vilest labour.

That the governors, and all other officers of the said houses, be chosen by ballot.

With directions, about the hours of prayer; of work; of rest; of recreation; orders concerning the sick; the dead; and many other particulars.

## X.

## Mr COOPER'S.

THE last that I shall take notice of, is in a treatise, intitled, "Definitions and axioms relative to charity, charitable institutions, and the poor laws": By Samuel Cooper, M.A. late fellow of Magdalen college, Cambridge. Written in the year 1763.—This author, observing that county houses would be too large, and parochial houses too small, proposes, That in every large hundred, or, where the hundreds are small, in every two or three hundreds united together, there should be a building erected, which should contain an infirmary for the sick, and such poor as are unable to work; a work-house for those who are able; and a house of correction for those who are not willing: And that these houses should be under the management of the gentlemen and clergy in their respective hundreds.

And this, he says, is not a mere speculative notion, but has experience on its side; having been put in execution with good effect, in the two small hundreds of *Colneis* and *Carlford*, incorporated by an act in the 29 G. 2. intitled, "An act for the better relief and employment of the poor, in the hundreds of *Colneis* and *Carlford*, in the county of *Suffolk*". By means of this, he says, the poor in these hundreds are much better maintained, are happier in themselves,

selves, and more useful to the publick, than in any other part of the kingdom; and, by the account which has been published, it appears, that this scheme will very considerably lessen the present expence; for, from easter 1758, to michaelmas 1762, notwithstanding some very extraordinary expences attending the first institution of it in these hundreds (the contributions being the same with what the several parishes had paid, upon an average, for the last seven years) a saving has been already made of above two thousand pounds; and, in a few years, the debt contracted for its first institution will be cleared, and then the rates will not be above half of what they are at present.

---

## CHAPTER THE SEVENTH.

### *Other regulations proposed.*

**T**HUS hath the wisdom of the nation in parliament, and of individuals, been employed for ages, in providing properly for the poor, and yet they are not properly provided for. Which consideration may be enough to discourage any person from attempting it, and to induce an opinion that it is indeed impossible. However, if it shall appear, that there are any material defects in the law as it now stands; by remedying those defects, some good may accrue. One objection to which several of the schemes that

that have been proposed, seem to be liable, is, that they aimed at too much at once. To repeal all the present laws relating to the poor; to abolish the whole doctrine of settlements; to be at a certain expence in erecting workhouses, with an uncertain prospect of their success; these, and other like proposals, tho' they may possibly be good in themselves, yet seem to put too much to the hazard; since it may happen, in an unexperimented case, that the remedy may be worse than the disease. Therefore, let the present laws stand, as to the main. Only let two particulars be rectified, until time and experience shall suggest further alterations.

ONE of the said particulars is this: In the whole series of legislation above specified, it appears, that no sufficient provision hath been made, to prevent the nuisance of *common begging*. Till this shall be done, all other regulations of the wisest legislature upon earth will be vain and fruitless. It signifies nothing, to provide for the maintenance and employment of those, who can maintain themselves without labour, and without being subject to controul. One would think it in speculation the easiest matter in the world to abolish this enormity; but if we reflect how it has been in practice, we shall be apt to think of it quite otherwise. The Dutch, we see, are commended, for their excellent institution, concerning the maintenance and employment of their poor; insomuch that a beggar in Holland is a rare sight: But what is deemed to be the effect, is in reality the cause. They will not suffer them to beg; and therefore it is, that their other regulations take place. And the reason why it is not so in  
England

England, hath happened thus : The makers of the statute of the 43 *Eliz.* proceeded in the track of the former laws. And the subsequent statutes followed in the same course. Now, begging, by the ancient laws, was not totally prohibited; on the contrary, in many instances, it was permitted and enjoined. And this was necessary in the state of things at that time. Whilst there was no compulsion, there could be no maintenance of the poor but from voluntary charity. And they who lived by alms, were allowed to ask it, or others were to ask it for them. And when, by all the means that could be invented, alms would not answer the purpose; then came in the compulsory method, which superseded the other, and was crossed rather than forwarded by it; and from that inconsistency, the compulsive laws to this day have not their desired effect.

How deep rooted this principle was in ancient times, appears from hence, that it still subsists, altho' the cause hath long since vanished. It was rivetted by all the ties of religion and duty. It was made an ecclesiastical concern, and the whole hierarchy was engaged in the execution. The *minister* was to exhort his parishioners, in the most solemn offices of devotion, and at the making of their wills, to be liberal and bountiful. The *churchwardens* were to make collections for them in the church (and hence came, very naturally, the parochial settlement): And the churchwardens have still annexed to their office that of overseer of the poor: So, the meetings for regulating matters concerning the poor, are to be held in the church. If the minister and churchwardens could not persuade the parishioners,

oners, then the *bishop* was to exhort and induce them. *Hermits* were allowed to beg about the country, by licence of the ordinary. *Pilgrims* were licensed to wander, and beg by the way, to render their devotions at the shrines of dead men. The *universities* sent out their begging *scholars*. And above all, the *religious houses* sent abroad their *friers mendicant*, who swarmed about the kingdom, preaching, and idling, and begging; insomuch that it may be doubted, whether the religious, by means of these people, did not receive more alms, upon the whole, than they distributed. — Hence *almsgiving*, to this day, among the vulgar, hath engrossed the name of *charity*; that great and comprehensive virtue, of which almsgiving at the most is but a small part; for a man may give all his goods to feed the poor, and yet not have charity.

Even the lord chief justice Hale, long after the compulsory laws were in force, gave countenance to this irregularity; with great humanity indeed, and from a sense of the insufficiency or ill execution of those laws. “What man (says he) “that is of ability, can have the conscience “to deny an alms, when he cannot chuse but “know, that there is not that due course provided, or at least used, that persons necessitous “and able to work may have it: Indeed, were “there a clear means practised for the employing “of poor persons, it were an uncharitable action “to relieve them in a course of idleness. But “when I do not know, whether there is such “a provision, I dare not deny my relief; because “I know not whether without it he may be “starved with hunger, without his own default.”

It



It is a misfortune, that most of this author's writings were not published till after his death, and had not received his last corrections; inso-much that he ordered by his will that none of them should be published. However, happy it is for the publick, that that direction is over-ruled. Nevertheless, if he had lived to put the last hand to the above tract, he would have judged probably, upon mature consideration, that in a country governed by laws, the presumption is in favour of the law, and not of him who violates the law; and, there being so many ways wherein a person of the most benevolent disposition may bestow all his charity, with an undoubted assurance of its being well employed,—that it is more prudent to lay it out where he is sure it will do good, than where he is not sure but it may do hurt. This kind of charity is indeed no other, than to set up private judgment against the publick law. The legislature have provided for the poor in one way, but we think that is not so good, and therefore we will have a way of our own. And it fares accordingly. The laws are broken thro' like cobwebs. The worst and most abandoned of the people are sustained by the efforts of well meant but very ill judged charity; whilst the modest, humble, virtuous, and really necessitous poor are neglected. Therefore let private judgment, or rather weakness and obstinacy, give way, at least for a time; and let it be tried what the laws can do.

But, how shall begging be restrained? which by a kind of prescriptive claim, hath so long been accustomed to triumph above the laws. All sorts of severities, it appears, have been enacted

acted against vagrants; and yet they wander still. Nevertheless, one would hope, the disease is not past all remedy. If it is, let us cease the unequal contention, and submissively give up our fortunes to the next man that comes with a pass, and tells us a justice of peace has so ordered it.— But let beggars and vagrants be doing. There is one infallible way to put an end to all this, and the easiest in the world, which consists merely in a non-feisance:—*Give them nothing.* If none were to give, none would beg. And the whole mystery and craft would be at an end in a fortnight. Let the laws continue, if you please, to apprehend and punish the mendicants; but let something also be done effectually, against those who encourage them. If the principal is punished, it is not reasonable the accessory should go free. In order to which, let all who relieve a common beggar, be subject to a penalty.

It doth not appear, for what reason the clause in former vagrant acts is now repealed, whereby a rogue and vagabond, for want of other settlement, was to be sent to the place where he last passed unapprehended. If this were revived, and somewhat enlarged, it seemeth that it might have good effect. As suppose it should be enacted, that a rogue and vagabond, upon his being apprehended and carried before a justice, should only be examined of the parish, township, or place, where he was last relieved before his being apprehended; and that the justice shall remove him, as a vagrant, to such parish, township, or place, there to be maintained and provided for, until the said parish, township, or place, shall find him another settlement, and cause him to be removed

**Further regulations proposed. Ch. 7.**

removed thither by order of two justices, as other poor persons are to be removed to their settlements; which if they shall not do, or shall suffer him to escape and go at large, then the settlement to be absolutely binding upon them.

—The difficulties that may be brought upon a parish by this expedient, is the very reason why it is proposed: From that zeal and activity which is exerted every where, to prevent that odious, abominable, dreadful thing, called a *settlement*, there can be no doubt of any failure in the execution.

In the mean time, the parish or place ought to have a remedy over, against the particular person or persons by whom the charge was brought. And this, in order to make the example more notorious, should be upon application (after proper notice) to the general or quarter sessions. And the justices there should have power, to order satisfaction to be made to the parish officers, out of the goods and chattels of the person or persons who harboured or relieved such vagabond; and for want of distress, to send them to the house of correction.

In like manner, the justices might have power to order those who relieve persons, not being rogues and vagabonds, but *idle and disorderly persons*, that wander and beg in the parishes to which they belong,—to be assessed *double* (for instance) of their usual assessment to the poor rate, for a limited time; in order to draw off by degrees the exuberance of their liberality. And indeed, if such persons were but compelled to give, what they obstinately do give without compulsion; the trade of begging would soon cease, for want of the necessary resources.

To

To render the aforesaid provisions more effectual, and to take away all foundation of abuse and fraud; a regulation should be made about the *passes* of *soldiers* disbanded, and *sailors* shipwrecked or otherwise landed at a distance from their habitation. Let these by no means be permitted to pass themselves, and thereby be tolerated to wander about the country, and learn the science of begging, and at the same time encourage impostors to go about under like pretences. These should be conveyed from the place of discharge, or of their landing respectively, not in the capacity of *vagrants*, but in the way and manner by which *vagrants* are conveyed, from county to county, and to be decently maintained, and treated with humanity, according to the merit of their several professions.

In like manner *travellers*, *labourers*, *harvest workers*, and the like, should be sustained and conveyed, if by sickness or other accident they shall become destitute of other provision.

So also, *soldiers wives*, with their *children*, ought to be conveyed to the husband or father, if within the realm; if not, then to their lawful place of settlement: but by no means to be suffered to stroll and beg about the country.

Persons having *no settlement*, ought to be sent to some workhouse or other place where they shall be apprehended; and sustained, not at the expence of such parish or place, nor of the county, (to prevent collusion,) but of the publick, to be paid out of some such rate as the land tax.

So much for the extirpation of common begging. Other means, and better probably, may be suggested. But the thing it self is necessary, if ever we intend, that any regulations for the employment and better ordering of the poor should be effectual. And certainly it is not impossible. It is indeed a disgrace, a shame and reproach, to an imperial kingdom, — to a people, conquerors of nations, lords of the ocean, renowned for their prowess to the utmost extremities of the globe, — to be laid under contribution by an infamous banditti! Which puts one in mind of certain generals, who have subdued mighty hosts in the field, and (to borrow the aforesaid feudal expression) have been *cow'd* at home by their wives.

SUPPOSING, now, begging to be restrained; humanity, religion, compassion, virtue, honour, decency, love to our brethren, the very frame of our composition, and bowels of our nature, call loudly upon us, for some better regulation, to feed the hungry, — to cloath the naked, — to sustain the impotent, — to employ the laborious, — to encourage the industrious, — to instruct the ignorant, — to reclaim the vicious, — and punish the incorrigible.

And this leads to the OTHER fundamental defect proposed to be taken notice of in our present poor laws; and that is, That the whole in a great measure, (and in practice, indeed, altogether,) is left to the management of those annual officers called *overseers of the poor*. It is true; the law provides that they shall be substantial

tial householders. But many a man may be a substantial householder, who is not fit to be an overseer of the poor. And, in fact, the office goes by rotation from one householder to another; some perhaps tenants at rack rent, whose lease expires the next year; others, ignorant and unexperienced; others, not willing to charge themselves, or to disoblige their neighbours; and all of them wanting to get over the office, with as little trouble to themselves as possible; and if any, wiser than the rest, projects any thing for the common good, his office expires at the end of the year, and his labour is frustrate. And, in practice, the office of an overseer of the poor seems to be understood to be this: To keep an extraordinary look-out, to prevent persons coming to inhabit without certificates, and to fly to the justices to remove them; and if a man brings a certificate, then to caution all the inhabitants not to let him a farm of 10 l a year, and to take care to keep him out of all parish offices; to warn them, if they will hire *servants*, to hire them half yearly, or by the month, by the week, or by the day, rather than by any way that shall give them a settlement; or if they do hire them for a year, then to endeavour to pick a quarrel with them before the year's end, and so to get rid of them: To maintain their poor as cheap as possibly they can at all events; not to lay out two pence in prospect of any future good, but only to serve the present necessity: To bargain with some sturdy person to take them by the lump, who yet is not intended to take them, but to hang over them *in terrorem* if they shall complain to the justices for want of maintenance:

To send them out into the country a begging (for why cannot they go, as well as others they will mention, who are less able in body? and the feebler they are, the more profitable will be their peregrination): To bind out poor children apprentices, no matter to whom, or to what trade, but to take especial care that the master live in another parish: To move heaven and earth if any dispute happens about a settlement; and in that particular, to invert the general rule, and stick at no expence: To pull down cottages: To drive out as many inhabitants, and admit as few, as possibly they can; that is, to depopulate the parish in order to lessen the poor rate: To be generous indeed, sometimes, in giving a portion, with the mother of a bastard child, to the reputed father, on condition that he will marry her; or with a poor widow (for why should she be deprived of the comforts of matrimony?) — always provided, that the husband is settled elsewhere: Or if a poor man, with a large family, appears to be industrious, they will charitably assist him in taking a farm in some neighbouring parish, and give him 10l' to pay his first year's rent with: And if any of their poor has a mercantile genius, they will purchase for him a box, with pins, needles, laces, buckles, and such like wares, and send him abroad in the quality of a petty chapman; with the profits whereof, and a moderate knack at stealing, he can decently support himself, and educate his children in the same industrious way. — But to see that the poor shall resort to church, and bring their children there to be instructed; to contract with a master, that he shall procure his apprentice at proper

## Ch. 7. Further regulations proposed.

213

proper times to be taught to read or write; to provide a stock of materials to set the poor on work; to see the aged and impotent comfortably sustained; the sick healed; and all of them clothed with neatness and decency: These, and such like, it is to be feared, are not so generally regarded, as the laws intended, and the necessity of the case requires.

The remedy in this case is not to abolish the office altogether. Let the overseers of the poor continue. But let there be a general *superintendent* over a certain number of parishes, as the justices in sessions shall find most convenient. Let the overseers collect the poor rate, but let them be under the direction of their superior as to the disposal of it. This is not any new imagination: for it occurred to the wisdom of parliament (as we have seen) in the statute of the 14 *Eliz. c. 5.* After *collectors* for the poor were appointed, then was to be appointed the *overseer* of the poor. And their several offices are distinguished in their title: the former were to *collect*; the latter was to *oversee*, that is, to direct the maintenance and provide employment. These offices were afterwards united, under the name of *collectors and governors of the poor*; and after that, as they still continue, under the general name of *overseers of the poor*. And this seems to be the particular reason, why they are required to be *substantial householders*; as thereby supposed to be more capable of executing the several branches of the office. And this might do very well in those days. For the *maintenance* of the poor was the thing principally intended. Their *employment* was but a secondary considera-



## Further regulations proposed. Ch. 7.

tion, and came in long after the regulations for their maintenance. And the reason is; trade and manufacture were then little attended to. There was in very deed little or no employment for the poor. And therefore tho' the special office of *overseer*, which was then thought of and established, did not continue, but was sunk in the other office of *collector*; that is no reason, considering the great difference in the circumstances of the times, why it ought not now to be restored in its intire vigour. Here is now work for all the poor, if they were ten times as many as they are; here are more poor now to be provided for, because we are become much more populous; here is scope to make the poor exceeding useful, and to render their lives comfortable and easy.

But this is not to be done by the present churchwardens and overseers, not one in twenty of whom is adequate to the performance; and if he were, the short duration of his office would not admit it. Therefore let there be a *general overseer*, within each *hundred* (for instance), for that seems the most apposite division; or if a hundred shall be too large, there may be two or more within such hundred.

The said overseer should be, not a person of the most eminent rank and dignity; for it is not to be supposed that such persons will sufficiently attend. He should not be of the lowest rank, lest something of authority should be wanting. In general, a person about the degree of a *high constable* seemeth the most proper; and the high constable himself, in some hundreds, perhaps might be appointed, with a reasonable addition  
to

to his salary: For it is essential to the execution, that such persons have salaries. People may talk as much as they please, about serving the publick for nothing. Many publick spirited men, no doubt, there are in the nation; perhaps there were never more than in this present age. But this sort of men is not always the most active; and it is certain the business of the world is done by another sort of people. From the highest subject to the lowest, no man chuses to serve for nothing. Nor is it reasonable they should. Therefore this overseer must be paid. And that should be according to the extent of his office. Each parish or township under his jurisdiction, should be required to pay so much in the pound according to their poor rate.

His business should be, to require the church-wardens and overseers within his district, to bring him an account in writing, and renew the same from time to time, of all the poor within their respective parishes; distinguishing therein their ages, ability of body, disposition of mind, trade or other employment, and what they are most apt and fit for; and from thence take his measures for their relief and employment. And particularly, to provide work, according to the manufactures of the several places, or to set up some easy manufacture if there shall chance to be none. And to this purpose, the direction of the statute of the 18 *El. c. 3.* is so very apposite, that it may be proper here to repeat it. For tho' it failed at that time, probably because manufacture was then but in its early infancy, that is no reason why it may not be put in practice now with better effect. . " To the intent that

“ youth may be accustomed and brought up in  
 “ labour; and then not like to grow to be idle  
 “ rogues; and to the intent also that such as be  
 “ already grown up in idleness, and so rogues  
 “ at this present, may not have any just excuse  
 “ in saying that they cannot get any service or  
 “ work; and that other poor and needy persons,  
 “ being willing to labour, may be set on work;  
 “ it is ordained, that within every city and town  
 “ corporate, by appointment of the mayor or  
 “ other head officer, and in every other market  
 “ town or other place where the justices in their  
 “ general sessions yearly after easter shall think  
 “ meet, shall be provided (of all the inhabitants  
 “ to be taxed, levied, and gathered) a compe-  
 “ tent stock of wool, hemp, flax, iron, or other  
 “ stuff, as the country is most meet for. The  
 “ same to be committed to the custody of such  
 “ persons, as by the said officers or magistrates  
 “ shall be appointed. Which persons so ap-  
 “ pointed shall have power (by the advice of  
 “ them who do appoint them) to dispose, order,  
 “ and give rules, for the division and manner of  
 “ working of the said stock; who shall be called  
 “ the collectors and governors of the poor.  
 “ Which collectors and governors from time to  
 “ time (as cause requireth) shall of the same  
 “ stock deliver to such poor and needy persons,  
 “ a competent portion to be wrought into yarn,  
 “ or other matter, within such time, and in such  
 “ sort, as in their discretions shall be limited.  
 “ And the same afterwards being wrought, to  
 “ be from time to time delivered to the said  
 “ collectors and governors; for which they shall  
 “ make payment to them which work the same,  
 “ according

“ according to the desert of the work; and of  
 “ new deliver more to be wrought. And so  
 “ from time to time to deliver unwrought, and  
 “ receive the same again wrought, as often as  
 “ cause shall require. Which hemp, wool, flax,  
 “ or other stuff wrought, shall be sold by the  
 “ said collectors and governors, either at some  
 “ market or other place; and with the money  
 “ coming of the sale, they shall buy more stuff,  
 “ in such wise as the stock shall not be decayed  
 “ in value. And if any such person, able to do  
 “ any such work, shall refuse to work, or shall  
 “ go abroad begging, or live idly, or taking  
 “ such work shall spoil or embezel the same, in  
 “ such wise that after monition given, the mi-  
 “ nister and churchwardens of the parish, and  
 “ the said collectors and governors, shall think  
 “ the said person not meet to have any more  
 “ work delivered out of the same stock; then,  
 “ upon certificate thereof made under their hands,  
 “ the said person, being brought by one of  
 “ the said collectors and governors, to such per-  
 “ son as shall in that county have the oversight  
 “ and government of one of the houses of cor-  
 “ rection, in convenient apparel meet for such a  
 “ body to wear, shall, from such town, place,  
 “ or parish, be received into such house of cor-  
 “ rection, there to be straitly kept, as well in  
 “ diet as in work, and also punished from time  
 “ to time, as to the said person, having the over-  
 “ sight and government of the said house of cor-  
 “ rection, shall be appointed.”

To this it may be added, that for the encour-  
 age-ment of industry, the overseers (always under  
 the direction of the superintendent) shall accord-  
 ding

ding to the necessities and infirmities of the several persons, give to some double the market price of such a piece of work, to others one half more, to others one fourth, so as that the more they work, the better will their maintenance be. And the overseers still to make up the deficiency out of the poor rate. And it is better for the parish upon the whole, to give two shillings a week above the market price to a family for work done; than one shilling a week, and suffer them to be idle. For thereby a spirit of industry will be encouraged, and their children will be brought up to be good for something. And the overseers might give small premiums to children; who should do the best work; as a new wheel, a pair of new shoes, a new bible, or the like.

An example will explain my meaning.

The form of the return to be made to the general overseer, should be thus:

*Parish of A.*

|   |  |
|---|--|
| { | James Wilson, aged 57 years; labourer,         |
|   | able in body.                                  |
|   | Sarah his wife, aged 45; able also.            |
|   | John their son, aged 12; stout and lusty.      |
|   | Sarah their daughter, aged 9; d <sup>o</sup> . |
|   | Elizabeth their daughter, aged 7.              |
| { | William their son, aged 4.                     |
|   | George their son, aged 3 months.               |

For this family, it might be ordered as follows:  
 If the father, by reason of his age, is not so able  
 as some others, for daily labour, and consequently  
 not

not so likely to get employment; the overseers are to hire him out to those that will give the most wages, tho' it be under the common price of labourers, and make it up to him so much by the day, as with their other supports may reasonably maintain them. The mother is supposed to be chiefly employed in tending the younger children. But as she may have some vacant time, and the elder children may be able to assist her and also to do some other kind of service; we will suppose the manufacture of knitting stockings to be carried on in that place; then let them have one, two, or more pairs to knit by the week; and where the common price of knitting is 12d a pair, let them have fourteen pence, sixteen pence, or eighteen pence, as their industry may deserve, or their necessities require. The eldest son to be put out apprentice as soon as may be, or hired to be a servant in husbandry. The eldest daughter likewise, so soon as any will take her; or something may be given with her the first year, to a good master.

So another family:

- { James Harrison, aged 27; able to work,  
 but not willing.  
 2 { Mary his wife, aged 25; can knit and spin.  
 { Sarah their daughter, aged 3.

If the father will not do such work as he is able for, let him be sent to the house of correction. And let the mother have work provided, to maintain her self and daughter.

If

If a person is able to do nothing, and has no relations that can or will do any thing towards assisting him; for such persons a place should be provided, by hiring a house, or contracting with some substantial person, for keeping all such, in a decent and comfortable manner.

If a man has occasional losses, or sickness; or is overburdened with young children; or with a little assistance towards stocking a farm, or renting a house, may be likely to do well; a temporary relief might be applied accordingly.

Sometimes, where a person is loth to bring himself upon the parish, and an immediate sum of money would be of great service to him, which he may be able to pay afterwards; the same may be lent to him, with or without interest, as the occasion shall be.

And in all cases, the particular reason of any supply given to the poor ought to be set down; that when the cause ceases, or other course is taken with regard to such poor persons, the said supply may be withdrawn.

All this to be directed by the general overseer, under the inspection of the justices. For which purpose, the justices might subdivide, as heretofore, into hundreds; and hold monthly sessions. At which sessions, the churchwardens and overseers to bring in their lists as aforesaid, and give an account how matters proceed, according to the directions given to them, and to receive further orders. And persons thinking themselves aggrieved by any thing done at the subdivision meetings, to have liberty to appeal to the general quarter sessions.

But

## Ch. 7. Further regulations proposed.

221

But how shall these meetings be kept up? It must be confessed, here is a difficulty. The justices are required to have monthly sessions about the *highways* too; and these are scarce any where regularly observed. And here it is necessary to repeat the observation made just now. When men speak of serving the publick, at their own considerable expence, and without any reward, or so much as thanks, for their labour; they mean, no doubt, as they say; and some will persevere: But is it not evident in experience, that they who profess the most of that kind, are the least diligent in attending? Do not the justices, on an alehouse licence day, flock in from all quarters? At a militia meeting, or a highway meeting, few or none will attend. And what is the reason? Not publick spirit, to be sure, or a desire to serve their country for nothing †. And whilst men are men, it will not be otherwise, let us imagine in speculation what we please. The majority of mankind will do, what the majority have always done. Therefore if we intend to reduce any scheme of this kind into real practice, we must alleviate the expence to the justices. Let those who attend the monthly sessions be allowed half a guinea a day

---

† Every body knows how slowly the *militia* scheme advanced, until pay was appointed to the clerks of the meetings and of the regiments or battalions; whereby they became industrious to procure meetings and put the acts in motion. And it is easy to predict the decay of that service, whilst the officers, as at present (all above the degree of lieutenants), shall have no pay allowed to them at the times of their annual exercise.



### Further regulations proposed; Ch. 7.

(as offered in one of the proposals abovementioned), to be paid out of the county rate. If any has a mind to serve for nothing, he may nevertheless; for compulsion in this case would be absurd. The expence indeed is trifling, and the advantages will far more than counterbalance it. For the business of the said meetings may be extended to the purposes of the highways likewise, and also of the militia upon occasion; and so the other business of a special sessions, as filiation of bastard children, removal of poor persons, recovering of poor rates and other taxes and assessments, complaints of masters, servants, apprentices, and a hundred other particulars. For the parties concerned would always know where to have the justices together to apply to. And in like manner, persons who wanted apprentices or servants, would resort thither, to receive such, by consent of the justices, as may be under the overseers care.

SUPPOSING now these two points to be gained, viz. a total prohibition of *begging*, and a *general overseer* within certain districts; it might be proper to leave the rest of the poor laws as they are; especially, as going further might tend to perplex; and by the help of these two regulations alone, it might be tried (which never yet hath been tried effectually) what the present poor laws can do.

As the laws now stand, the poor may be maintained and ordered, in separate families; or in a general workhouse within a township or parish; or two or more townships or parishes may join; the churchwardens and overseers may purchase

## Ch. 7. Further regulations proposed.

223

chase houses, may hire houses, may build houses, may contract with persons having houses of their own fit for the purpose of lodging, keeping, and employing the poor.

By the 43 El. c. 2. The churchwardens and overseers shall take order for setting to work the children of all such whose parents are not able to maintain them;—and for setting to work all such persons, married or unmarried, having no means to maintain them, and using no ordinary and daily trade;—and for the necessary relief of the lame, impotent, old, blind, and such other among them being poor, and not able to work.—And the justices shall send to the house of correction or gaol, such as shall not employ themselves to work, being appointed thereunto as aforesaid.

By the 3 C. c. 4. They may set up any trade, mystery, or occupation, for setting on work, and better relief of the poor.

By the 33 El. c. 2. They may, with leave of the lord of the manor, erect upon the wastes, fit and convenient places of habitation for the poor, at the charge of the parish, or otherwise of the hundred, or county; and may place more than one family in any such house, notwithstanding the laws against cottages.

By the 9 G. c. 7. They may purchase or hire any house in the same parish, and contract with any person for keeping, maintaining, and employing the poor there:—And where any parish or township shall be too small, two or more may unite for the purposes aforesaid.

In short, the poor must be somewhere. And it may be still left discretionary, in which of these

ways

ways they shall be ordered; for one method may be more convenient in one place, and another more convenient in another place.

In cities, boroughs, and towns corporate, that have exclusive privileges of trade, and especially that have justices of the peace of their own, the regulations of the poor ought to be still kept separate, as it seemeth, within the limits of the jurisdiction of those justices. In many of these towns, workhouses have been already established, with good effect. These may continue as they are. But whether a general erection of such houses may be recommended, seemeth to be somewhat doubtful from facts; for as some have been successful, so others have failed. This may be owing to their good or bad management.

In the city of *Bristol*, according to Mr. Cary's account, the workhouse established by virtue of the act of parliament abovementioned, prospered exceedingly. The author of the "Considerations" above quoted, gives an account of two that had been erected on the plan of that of *Bristol*, by special acts of parliament, which did not succeed, to wit, at *Sudbury*, and at *Colchester*; and were made use of, he says, whilst they subsisted, for party jobs, and private views, and were the occasion of much expence and disorder and confusion. Perhaps a *maritime* trading town, as *Bristol*, may be more commodious for such an establishment, than in the inland countries, especially if in such place there shall be no considerable trade or manufacture. In the sea port towns generally, they seldom have too many hands, and  
are

are ready to employ all that come, without examining minutely into their place of settlement.

Several of the proposals, as we have seen, aim at a general COUNTY workhouse. Others extend further still, as to the two great cities of *London* and *Westminster* and the other places within the *bills of mortality*. As to these last, the proposal may be feasible, perhaps, within that circle, which contains in it more wealth, publick spirit, and charitable disposition, than any other spot of the same extent in the known world. But even there, the scheme possibly may be too comprehensive.

However, some regulations within that district, it is too evident, are extremely needful. It is a most affecting scene, to a heart tinctured with the least degree of sensibility, to walk thro' the streets of London and Westminster, and there to behold the utmost affluence and splendor, on the one hand; and the extreme wretchedness, on the other, that human nature is susceptible of in a free country. And this, not for want of compassion and benevolence.

The truth is, charity, being crossed and interrupted by the compulsory laws, which bring the general poor upon the parish, breaks forth in particular provisions for the sick, wounded, and otherwise diseased; for lunatics; for foundling children; for lying-in women; and in many other like instances. But amongst all these institutions (which is somewhat wonderful) a society hath never been formed, for visiting and providing employment for the industrious poor. This great and most useful work is left to the church-wardens and overseers, who set about it as a

Q

talk

## Further regulations proposed. Ch. 7.

task and imposition, without any intention or consideration at all of the publick good.

But, in general, the objections against county workhouses, or for other very large districts, seem to require peculiar attention. There is something of unwieldiness in the prospect. A vast expence of building. A crowded inhabitaney. A charge and trouble in removing the poor to and from such houses, at so great a distance as it sometimes will be.

One objection seems to be, particularly, with regard to *health*. To which purpose, it is very considerable, what Mr Hanway observes, in his "Considerations on the salutary design of the act of the 2 G. 3. c. 22. for registering all parish poor infants within the bills of mortality, under four years of age": Which act, reciting, that whereas the keeping regular, uniform, and annual registers of such infants, may be a means of preserving their lives, therefore enacts, that such register shall be kept of all poor infants under that age, in any of the workhouses within that district, and directs in what manner the said register shall be made, and to whom, and when, to be produced from time to time. — He seems to intimate, that parish officers had made a merit of saving money to the parish, understood to be at the expence of the lives of such infants. He speaks strongly, and with great goodness of heart, against the unhealthiness in general of parish workhouses, occasioned by the unwholsome and corrupted air, particularly within the two great cities of London and Westminster; and thinks it almost impossible for any children to live there: "Parish officers, says he, may

may amuse themselves till doomsday; but, to attempt to nourish an infant in a workhouse, where a number of adults are congregated, or where a number of nurses are assembled in one room, and consequently the air become putrid, be these nurses ever such proper persons, I will pronounce, from the most intimate knowledge of the subject, is but a small remove from slaughter, *for the child must die*". — "I have heard it declared, says he, in publick court, of one very important parish, which in fourteen years did not preserve a single child; and I have seen the accounts of another, which acknowledged, that out of fifty three, being the whole number received in five years, not one was kept alive".

And from the consideration, that at best, within the bills of mortality, one half of the people that are born die within the age of two years, and that in the country they do not generally bury above thirteen in a hundred under two years old, he takes occasion to wish, that the governors of the workhouses, and all other people who can afford it, living in narrow streets or smoaky places, would send their children into the country to be nursed: "Medical gentlemen, he adds, can best assign the cause, why the burning of coals to keep 800,000 people warm, and dress their food, impregnates the air with too much sulphur for infants to breathe freely, and how it cuts the tender thread of their lives."

"If reason and constant experience (as he goes on) concur in proving, that nothing but mortality can ensue from children being kept in town; if to this we add, that the price of nursing

is really cheaper in the country, than in or about the town; then there can, upon this comparison, be but *one* reason why these infants are detained in town; and *that* reason, christianity and humanity shudder so much at the thought of, that I will not repeat or mention it again. — There is a time for all things: and tho' I do not expect the reign of the saints on earth, I do most solemnly declare, that I hope for the same humanity hereafter in parish officers, as among other men; and tho' I am sensible, office is generally apt to harden mens hearts, it can never destroy a sensibility of human misery in *his* breast who deserves the name of a *man*. — I have heard, that a *Chinese*, according to their laws, may cast his new born child into the river. On the other hand, the *Portuguese* have a notion of honour, that if a *murderer* takes refuge in their house, they are bound to protect him. *We* live in a country, where our *laws* teach us, that to destroy a child under any circumstances is murder, and a crime punishable with death: And by our *religion* we believe, that he who is *all-mighty* is *all-merciful*, and that the *son of God himself*, teaching us to be *merciful*, suffered death, in his human nature, in *mercy and compassion to mankind*. — Now for my own part, I cannot discover any great difference, between withholding from an infant such air, aliment, and necessities of life, as experience leads me to believe are absolutely necessary to his preservation; and throwing him, like a kitten, into a pond. The easier the death, the less cruel. And if it can enter into the heart of man, out of a romantic principle of honour, to imagine he is bound to protect a *murderer*,

*murderer*, for no better reason than his asking protection; the natural rectitude of the heart will surely lead us to protect the *innocent*, when they sue for mercy, and as it were intreat us to prevent their destruction".

And finally, speaking of the project of county workhouses, he says, this consideration is yet perhaps very remote, and seems to require more thought than has been yet employed about it, by those legislators whose publick spirit and humanity lead them to contemplate this object.

To this consideration of *unhealthfulness*, where many people are shut up together within the same walls; somewhat may be added, concerning the *expence* and probable *utility* of it. We have seen what is the *Dutch* method with regard to their poor; let us attend next to our neighbours the *French*. The ingenious and intelligent author of the "*Police of France*" (which appears to have been written about the year 1753) tells us, that the precarious charity of the monastic orders, and their pretended care of the poor, having been intirely ineffectual for relieving the poor, and preventing the disorders of strolling beggars; a general hospital was set on foot in the city of Paris, in the year 1656; consisting of several departments, for poor boys, and also for girls, to be brought up and instructed; for vagabonds and sturdy beggars, to be put to hard labour; for other criminals, to be confined; for madmen; for foundling children; for the sick and maimed. Towards the maintenance of these, are assigned all the rights, profits, and revenues appertaining to several other charities; and charity boxes also to be fixed up, and collections



made for them in all churches and publick places; every community is to send an annual gift to this charity; on every contract made with the government, the contractor is to advance a certain sum; they are to have a share of all forfeitures for misdemeanors, and of all goods confiscated; persons admitted to offices, or to their freedom in any of the companies, are to pay a certain rate; they have also appropriated to them a certain duty on hackney coaches; and a share of the profits each night from the playhouses and other publick diversions; and part of the duties of provisions brought into the city; and several of their own provisions duty free.

Afterwards, in the year 1662, the like establishments were enjoined in all the great cities and towns throughout the kingdom; wherein all the poor that were natives or had lived for the space of one year in those districts [where we may observe, by the way, that the settlement in France is just the same as it was in England before the statute of Charles the second] were to be confined, and prevented from wandering into other parts. “And this seems (he says) at present to be the general system in France, for the maintenance of their poor: Concerning which, (as he proceeds,) I have been more particular in making my enquiries, upon being informed, that several treatises have lately been published in London, recommending such a general method of maintaining our poor, as preferable to the provisions which our ancient laws had established by parochial assessments. Whereas, at the same time, many representations, projects, and memorials have lately been offered to the French ministry,

ministry, proposing on the other hand, that their poor might be maintained, as in England, by parochial assessments. And there is a general complaint of the increase of vagrants, and the multiplicity of poor unprovided for, notwithstanding those establishments. So that I cannot but observe, that the *police* of every country is best regulated, when the execution of it is divided into separate and distinct departments. For besides the difficulty of directing and governing so large an institution, and the preventing it from being converted into a private job; we must consider the fatal objection to such a plan, arises from the numbers to be contained therein being unlimited, whilst there can be only a limited revenue to support them. And this accounts for the swarm of beggars, which infest the streets of Paris, notwithstanding the rigorous methods of enforcing their laws; for as their hospital can hold only a certain number, it is suspected, that as fast as the magistrates send a crowd of vagrants to be admitted at one door, the administrators let out as many at another."

He reckons that there are 12000 persons, or more, in the said several departments of the hospital at Paris; and that their maintenance, including the charges of salaries and wages, amounts, at the lowest computation, to sixpence a day for each person, over and above the produce of their labour.

Besides all this, several of the schemes proposed, we may observe, seem to annihilate all *family connexions*, except that of one great family under one head. The men are proposed to be

kept apart; so likewise the women; so that there will be a *populus virorum*, and a *populus mulierum*; which, no doubt, would lessen the number of poor, both by hindring those who are already married from propagating their kind, and discouraging all other poor persons, or persons of small or even of middling fortune, from marrying; for who would enter into the state of wedlock, when he does not know but in the uncertainty of human affairs, he may fall into poverty, and the consequence of that poverty will be a divorce and separation from his wife and children, so as that they are to have no future intercourse and communication. This indeed, with the help of the late marriage act, may cooperate, to reduce the number of people, in a reasonable time, perhaps one third; and so, by degrees, more and more. But it remains to be considered, whether depopulating a country is of advantage to it. Suppose, in a country, there was but one inhabitant: Such country would be but of little worth. Suppose there were two: That would be something better. Suppose there were three, or three hundred, or three millions, properly employed; would not that be so much the better still? — I have mentioned the late *marriage act*. Amongst the nobility, and people of fortune, perhaps it may be useful. Amongst the poorer sort, the utility of it is not so apparent. — But, in the name of goodness, if it is a beneficial law, why is it not suffered to have its whole effect? It is astonishing, and what posterity will never believe, that their forefathers made a law, that people in England should not marry but under such and such circumstances; but if they

they would go into Scotland, they might marry as they pleased. Infomuch, that it became fashionable to take a tour into Scotland to be married; and it was almost a reproach to a young lady to have been married, and not to have been thought worth stealing. As if it were an honour to a noble family, that the heir can make out his title to the inheritance by virtue of a Scotch marriage, solemnized probably by an alehouse-keeper, in a very ridiculous manner; and that he can be able to boast, tho' not born, yet that he was begotten, on the other side of the Tweed.

BUT supposing a *workhouse* intended to be built, for any county or other large district; and advertisements issued, for workmen to deliver in their respective plans. It is great odds, but in order to shew their absurd skill in architecture, they will produce to you models fitter for a royal palace. — It is a humble habitation for the poor that is wanted: And it is a kind of insult upon poverty, to go about to lodge poor people in a superb edifice. Let the poor themselves be consulted, and they will chuse houses like unto those they formerly inhabited. And it is humbly submitted, whether instead of one large building to contain one immense family, it would not be much preferable, to build several small houses contiguous, so as to receive separate families; with rooms or apartments therein, some more some fewer, some larger others smaller, according to the number and circumstances of a man's family that may be brought to be lodged there. Several reasons offer to recommend this form:

**Further regulations proposed. Ch. 7.**

form: As, 1. This way seems to be the least expensive. 2. It need not to be done all at once; but one or two such fabricks may be set up in a year, and thereby trial made, with little charge, how the project is likely to succeed. Others may still be added, if need be, until the houses shall make up even a small town. So, houses may be built for the governor, for general places of manufacture, and the like, as practice and experience shall dictate. 3. The poor will desire this method, infinitely before the other; and, consequently, will set about their labour with more alacrity. 4. The connubial state will not be infringed; nor, consequently, the nation thereby depopulated. 5. The health of individuals will be consulted, and infectious distempers not so certainly propagated. 6. It is equally applicable to a small as to a large community; to a county, to a hundred, to one or two parishes, or to a small township. 7. If after trial, it shall appear that the project of erecting workhouses shall be ineffectual to the end proposed, or some better course in future times shall be suggested; these buildings, nevertheless, will not be without their use; for, being in the form of other houses in the neighbourhood, they may easily be converted to other purposes: But those other enormous buildings will not be so evidently useful in any other way.

As to SETTLEMENTS; these likewise, by the proposed alterations, need not to be disturbed. It has been the work of an age, to ascertain the law concerning them. If it should be thought necessary to meddle with these; it seemeth that the

the notion of abolishing all kinds of settlement whatsoever, would carry the matter much too far; and is impracticable, whilst the present method of ordering the poor in any wise subsists. Even upon the county scheme; instead of the parochial, there must be a county settlement; otherwise there would be infinite frauds between the counties, in shifting off useless or incorrigible people, out of one county into another.—

It must be owned, the statute of the 13 & 14 C. 2. hath exceeded, perhaps, the due bounds. If alterations should be thought requisite, it is submitted, whether it might not be reasonable to reduce the settlement to where it was before that statute, to wit, to the place of birth, or of inhabitancy for one or more years. For so long as this was the plain simple settlement, there were very few disputes in the courts of law about settlements. It was the easy method of obtaining a settlement by a residency of forty days, that brought parishes into a state of war against the poor, and against one another; and caused the subsequent restrictive statutes to be made, all which would fall of course, by reducing the settlement to its ancient (and indeed most natural) standard.

ONE good effect of this would be, that it would abolish CERTIFICATES; by taking away the cause of requiring, granting, or denying them. There is indeed somewhat of hardship in this matter of certificates, by putting it in the power of a parish officer, to imprison a man (as it were) for life; however inconvenient it may be to him, to continue in that place where he has

had the misfortune to acquire what is called a settlement; or whatever advantages he may propose to himself by living elsewhere. For in that case there would be no danger of settling himself, his wife, children, and apprentices, by an inhabitancy of forty days. In like manner, the disputes about hiring and service, about being assessed to and paying of parish rates, about serving of offices, about renting of 10l a year, about purchases, in short, about ninety nine disputes in a hundred concerning settlements, would be at rest.—But these are matters not essential to any thing that hath been above proposed; and are only suggested as subjects of future consideration.

If it may be reasonable, to advance further still in speculation, perhaps a time may come, when it shall be thought convenient to *reduce all the poor laws into one*. The laws concerning the poor may not improperly be compared to their apparel. Where a flaw is observed, a patch is provided for it. Upon that, another. And so on, till the original coat is lost amidst a variety of patch-work. And more labour and materials are expended (besides the clumsiness and motley figure) than would have made an intire new suit.

AND not only with respect to the poor, but the case is the same in almost all other instances, especially in those of greatest moment, and most ordinary occurrence. As for instance, in the matter of the HIGHWAYS; there are five and thirty acts of parliament now in force for making

king of good roads; for which attention to the ease and convenience of travelling and conveying of manufactures, a foreigner very probably would highly applaud us, and conclude that we are the best regulated nation upon earth, and that all our roads in particular are like bowling greens. But how would he be amazed, if he should travel into the country, and see what such roads these five and thirty acts of parliament have produced. The roads, if possible, are worse clouted and patched than the acts themselves are. It is incredible what confusion there is amongst all these acts, unless a man would lay them together, and attentively compare them. In order to reduce any subject of this kind into a regular system, and to make new provisions as occasion may require; it is necessary first of all, by laying all the statutes upon that subject together, to know what the law really is at present; and then it may be useful likewise to inquire, what laws have been upon the same subject that are now expired or repealed, and for what reasons they have been unsuccessful: in like manner as is above set forth with respect to the poor laws. For otherwise it may happen, that an act of parliament may be made, to enact what is the law already, or to propose an expedient which has been already exploded.

And for the mechanical part of such a production, perhaps the method should be this: In one column to set forth all the statutes, and parts of statutes, in their order of time, that have been made with regard to that subject; distinguishing therein, what is now actually in force: Then, in the opposite column, to set forth the proposed alterations.



alterations. So that at one view, any person may have a distinct comprehension of the whole, and be enabled to make his own observations with clearness and precision.

Notwithstanding the many acts about the highways, something confessedly is still wanting. One expedient there is, that hath never been tried. And the importance of the event may justify hazarding the experiment. In order to set the *poor* laws agoing, a general overseer is proposed as above. Why may not the very same person be also a *general surveyor* of the highways within the same district? There is just the same objection against the common surveyors of the highways, as against the overseers of the poor. They are only annual; they know not how to make a road; the people will not obey them, but chuse to travel on from generation to generation in mire and dirt, rather than be at six days labour in a year, to render their passage more commodious.

The office of this general surveyor should be, to require an account from the several surveyors, of the state and condition of their respective roads, the quantity, quality, the place where, whether the road is much or little frequented, the names of all the people liable to work, and in what manner, that is, whether they are chargeable to find carriages, or to find men only, or one man, as the case may be.

Then, under the direction of the justices at the special sessions, he should order the surveyors to call forth their men, or so many of them as shall be thought necessary at one time, at such place, and on such days as shall be appointed;  
and

and himself to attend, and lay out the work, and inspect the performance, and cause the penalties to be levied upon defaulters.—This is the way to experiment fairly what the laws can do: To say, that the laws themselves are deficient in other respects, may be very true, but it is more than any man knows; because the whole force thereof hath never been exerted, nor ever will be, under the care of those spiritless, ignorant, lazy, sauntering people, called surveyors of the highways.

But after all: Supposing these superintendent officers to be necessary or useful with respect both to the poor, and to the highways; difficulties may arise about the persons who shall have power to appoint them.

It hath been objected against justices of the peace, that they have too much power already. Be it so. These officers, nevertheless, must be appointed by somebody. The justices, in their collective capacity at least, when a considerable number of gentlemen of honour and fortune are assembled at their general sessions, I think, have not been much blamed for an undue exertion of their power. Indeed, if we consider, what a multiplicity of causes, of crimes and offences, is brought under the jurisdiction of these justices, and is every session of parliament increasing; there may be reason to apprehend, that the office at length will be overset, and that a sufficient number of gentlemen will not be found, able and willing to act. But so long as the laws give unto them authority and jurisdiction, and they are willing to exercise it; it may seem reasonable, for the more ready and chearful execution, that they

they have power to appoint their own officers. I never heard of any abuse of power in their appointing *high constables*: And that is so nearly similar to the present case, that the very high constables themselves (as was observed before) may be very proper officers for the purposes abovementioned.

But supposing them not to be appointed by the justices, but by some other, of *superior or inferior* station. Above them, suppose the *crown*: This, probably, will not be assented to. Suppose the *custos rotularum*: It cannot be presumed that he knows who is fittest in the country for such an employment, better than they who converse among the people, and are aided by experience and observation. But may not the *people* chuse for themselves? That is the very thing to be guarded against. For, who will they chuse? Just such as themselves, that will let them go on in their ancient course, and frustrate the very purpose they are intended to serve. Suppose an assessment were laid for repair of the highways, and the surveyor having collected the money, had power given to him (as hath been proposed) to employ, and to pay, such person as he thought most able, for laying out the road, and hiring labourers to work. Who, think you, would his wisdom employ? A man just as wise as himself. Perhaps his own son, for the sake of the reward; or his father, as having had more experience, who would execute the work with like effect, as when he himself in some former year had been surveyor.

BUT

BUT to return. — If we may extend our views still further; What is there that gentlemen more desire, for their innocent recreation and amusement, than the preservation of the GAME? Why might not the same person still, have it in his instructions, to cause poachers to be brought to condign punishment? as he would have large opportunities to obtain knowledge of offences of that kind: and where it is a man's particular office and business, the odium of an informer is taken off; for he is then obliged and required to perform his duty, on pain of forfeiting his office.

In this case likewise, whatever the laws about the game may be deficient in, it is not their want of number: but plainly the want of some intermediate person between the justices and the offenders, to put the laws in action; which whilst they are suffered to sleep, are worse than if there were no laws at all, for then the people would be deprived of that exquisite satisfaction which they seem to take in violating the laws, and which prompts them to it, when profit and peace and liberty and reputation draw the contrary way.

## CHAPTER THE EIGHTH.

*Defects in other branches of the office  
of justices of the peace.*

**T**HERE are many other particulars in the justice of peace law, which seem to want amendment, whenever it shall be thought a proper time to go about it. Such, for instance, (to take them in alphabetical order) are these that follow.

**Alehouses.**

The several sorts of *licences* for publick house keepers, are interspersed among the statutes in great confusion, and (in practice at least) seem to be generally misunderstood: and consequently, the common printed forms from the stamp office seem to be erroneous. As the laws stand, a licence from the officers of excise alone, for retailing *spirituous liquors*, is not sufficient; but the persons ought previously to be licensed also by the justices of the peace to sell spirituous liquors (2 G. 2. c. 28. s. 11. 9 G. 2. c. 23. s. 14. 16 G. 2. c. 8. s. 11.). And there may be very good reason for this: Because the justices are more able to judge of the fitness of such persons; the officers of excise being oftentimes mere strangers to the parties. And therefore the ale  
licence

licence ought to run "to keep a common ale-house or victualling house, and to utter and sell therein victuals, beer, ale, and *other excisable liquors*" (or in some other such like form). Or else the laws ought to be altered in this particular. For the law and the licence ought not to run counter to each other.

So also it is absurd, in the licence of an ancient alehousekeeper, to insert a clause setting forth that he *hath produced a certificate that he is of good fame and of sober life and conversation*. For if he was licensed the year before, such certificate is not required.

The power given to the justices in sessions (by the statute 8 El. c. 9.) to rate the prices of *coopers vessels* to be sold for ale and beer to be uttered therein, is never put in practice, nor probably can be; for unless the workmen can have such price as they think reasonable for making them, they will not make them at all: besides that it destroys all endeavour of excelling, when the price of the work, be it better or worse, is fixed beforehand. This is a species of the general law for rating of wages; which always hath been, and always will be impracticable: And therefore it were better that all such laws were abrogated; since by breaking them with impunity, people may be induced to have less regard for others which are of more importance.

So the statute against selling of wine, ale, beer, or other liquors, *in vessels of plate*, may require consideration, whether it ought not to be repealed; or otherwise enforced, and carried into execution. Those wretches, who will venture their lives for stealing a silver tankard out

of an alehouse, would be loth to run the risk, if they knew that all the plate in the house was forfeited, and they might have it for suing for.

The statute for ascertaining the measure of ale quarts and pints *according to the standard*, is seldom put in execution; nor would it signify much so to do: for if the retailers were restricted in quantity, they would make the liquor so much the worse in quality, or else advance the price. And by letting this statute stand, the alehouse-keepers (not observing it) are deprived of the privilege which they had at the common law, of detaining goods of their guests for the reckoning, and are left to the tedious and difficult way of bringing actions for every trifling debt.

## Apprentices.

All the clauses in the statute of the 5 El. c. 4. limiting the *estate and quality* of persons to be bound apprentices, as that their parents shall be worth 40s a year; and the like, and also specifying who may or may not take such apprentices; however useful they might be in the infancy of manufacture, are certainly of no kind of use now, and therefore ought not to incumber the statute book; and particularly, these and all such like obsolete laws, ought not to continue as a dead weight upon the office of a justice of the peace, which is loaded enough in all reason with statutes of real benefit.—And in general, there is great need of a revival or repeal of abundance of penal laws, which tho' not put in execution, yet hang over the subject as a snare, and may be put in execution

execution at any time; inſomuch that every man, almoſt every day of his life, incurs the penalty of one or other of them, whiſt he thinketh probably of no ſuch matter.

And there ſeems to be no ſufficient clear proviſion, what ſhall be done with an apprentice upon the *maſter's dying*, which is a caſe that muſt needs often happen.

## Aſſizes.

The conſtable's preſentments at the aſſizes, are matters of mere form, and ſcarce ever regarded, and in ſome counties cauſe an expence of 6s or more for each pariſh at every aſſizes; and anſwering no ſufficient purpoſe, they had better be laid aſide.

## Baſtards.

Limiting the filiation of a baſtard child, to the *two next juſtices*, altho' generally it may be convenient, yet it is not univerſally ſo. It may happen, that one or both of the juſtices may reſuſe to act; and it would be tedious and troubleſome for the pariſh to go about to compel them. Or they may differ in opinion, and there is no mean to force them to be both of a mind; for they are not to be ſhut up as jurymen until they can agree. And in that caſe, there will be a failure of juſtice. This inconvenience might be avoided, by changing only one word in the act, inſtead of *next*, to ſay *near* unto the limits;



**Other defects in the justices' law. Ch. 8.**

for this latter is a word of relation, and will extend until so many shall be found who will act or can agree; still keeping up the spirit and intent of the act, and not calling-is one further off, when a nearer can be had; and still reserving power by information to proceed against a justice, who shall obstinately refuse to perform his office.

**Bridges.**

That clause in the statute of 12 G. 2. c. 29. which enacts, that no money shall be applied to the repair of county bridges, till presentment be made by the grand jury at the assizes or sessions, of the insufficiency or want of reparation, carries the matter evidently too far: for tho' it may be reasonable, that the high constables, or other surveyors of bridges, and also the justices, should be restrained from bringing a charge upon the county in such matters at their own will and pleasure, and perhaps only for the private convenience of individuals; yet in cases of emergency, and of small expence, as for instance, under the charge of 40s, it might be reasonable that the surveyors had power to contract; lest before the assizes or sessions the breach be made worse, or the bridge be broken down. And in this last case, the justices should have power immediately to meet and order the rebuilding with all convenient speed; for why should the publick be incommoded upon this account, three months longer, as it may happen, than otherwise would be necessary?—And where only a small repair

repair is wasted, the expence consequent upon an indictment, is more than the charge it self of the repair.

### Clerk of the peace.

The fees of the clerk of the peace are not ascertained by any statute, except only in some few particular instances. It might be very useful, by an act to require a table of the said fees to be drawn up in every county, and the several items thereof to be allowed or otherwise disallowed by the justices, and the same finally settled by the judges of assize. In which table ought also to be set forth, how and by whom the same shall be paid. As for instance, in case of judgment given on appeal from an order of removal, that the same be paid by those against whom such judgment shall be given; and so in all other causes *betwixt party and party*, that he who is in the wrong shall pay the fees. In like manner, the *sheriff's* fees ought to be ascertained, so far as he is subservient to the justices of the peace.

And as in *civil* causes, so also in *criminal*, wherein the *king* is party, it ought to appear particularly what is due, and by whom to be paid, especially in case where the party accused shall be acquitted. As if a man be indicted for an assault, and upon traverse of the indictment shall be found not guilty; it seems very hard, that he shall pay 7 or 8 l court fees, when it is found that he was in no fault. It is more reasonable, that the false accuser, that is, the prosecutor;

## Other defects in the justices' law. Ch. 8.

should pay the same: (which, by the way, would also prevent vexatious prosecutions.)

Where the king is the *sole party*, as in all orders of the court *ex officio*; it may be considered, who shall pay in that case. Mr Crompton says, nothing is due: If any thing shall be allowed, some fund should be established or directed for the payment of it; for there is no law at present that charges it upon the county rate.

*Poor people* petitioning for maintenance, and the like, seem intitled to be admitted in the strictest sense *in forma pauperis*; but if the overseers, against whom they complain, shall be found in default, then they ought to pay the fees of the petition and order thereupon.

To be enforced to bring *actions* for such fees, would be troublesome and endless. *Indictment* seemeth the most apposite remedy for matters pertaining to a court of record. Or if a person is in custody, or appears upon his recognizance for the peace or good behaviour or the like; it might be proper that the court should have power to detain him until his fees shall be paid.

## Constable.

Every session of parliament brings an additional trouble upon the petty constable, in executing the warrants of the justices; and, generally, he has no reward for his pains.

The legislature, indeed, in some instances, have considered the hardship of his case; by ordering

ordering payment to him, for carrying offenders to the gaol or house of correction, and for distraining of goods in execution of a conviction before the justices: and there is just the same reason that he should be paid for the other particulars of his office. As for instance, in cases between party and party, as between masters and servants, or common informers and offenders about killing the game, and the like, he ought not to be taken from his family and business without some recompence, as suppose at the rate of half a crown a day for himself and horse; to be paid in the first instance by the party applying, but to be imposed finally, by order of the justice, upon the person who shall be found in fault; or to be paid out of the penalty. So in causes at the suit of the king, not being felony, as for the peace or good behaviour, assaults, riots, and the like; to be paid in like manner on delivery of the warrant to him by the prosecutor, but to be reimbursed by the person or persons accused, if they shall be found guilty. In cases of petty larceny and other felonies; to be paid, as at present for carrying him to gaol, so also by the like reason for apprehending and carrying him before the justice.

### **Conviction.**

It is no reflection upon the justices to say, that there is not one of them in ten who knows how to draw up a conviction in form, without a special precedent before him in every particular case; which is not to be expected. Even the greatest lawyers

lawyers have found it difficult enough, to guard a conviction, so that other lawyers could not break into it. Therefore it seemeth desirable, that as the legislature have relaxed the rigour of this strict formality in some instances, by appointing a brief and summary form of conviction, so they would do it in others; to the end that when a justice hath with much trouble performed his duty, he may not have the whole laid open and disannulled, for want of the proper technical terms in expressing it.

### Distress.

In distresses for rent, the justices of the peace have jurisdiction given to them in certain instances; as particularly, where the premises are deserted by the tenant, without leaving sufficient distress, there the justices are to put the landlord into possession.

There is another case, which very frequently occurs, where the tenant holds over after the expiration of his lease, or after having given notice or agreed to quit. The remedy by requiring such persons to pay double rent, is somewhat absurd; for they are generally such as are not able to pay the single rent. And they will put the landlord to the expence of an ejectment; and before that can be carried into execution, especially in those counties where the assizes are held but once a year, they will have carried off one year's crop. Why might not two justices have power given to them, to put the landlord in such case into possession? reserving to the tenant, if  
he

he thinks himself aggrieved, power of appealing to the general quarter sessions; and with power to the sessions to award costs to him, if the order of the two justices for removing him shall be quashed upon the merits.

There is another difficulty, in making distresses, as well for rent, as in execution of the warrant of a justice of the peace to levy a penalty or forfeiture or other sum due (as for servants wages, for instance), that there seems to be no power to open locks or doors; so that it is in the power of the person whose goods are to be distrained, with a very moderate caution, to weary out the landlord or constable, and make the distraining exceeding difficult. Where power is given to distrain, it seemeth reasonable that power should be given to come at the goods.

### **Evidence.**

It hath been questioned, how far justices of the peace have power to compel witnesses to appear and give evidence in matters depending before them. And in several late acts of parliament, giving jurisdiction to justices of the peace to hear and determine certain offences, there are special clauses empowering the justices to summon witnesses; and if they shall refuse to appear, then to issue warrants to bring the witnesses before them, and on their appearance, empowering the justices to compel them to give evidence. Which seems to imply, that the legislature judged these provisions necessary: and the necessity of a

Other defects in the justices' law. Ch. 8.

general law hath been suggested, to extend the said provisions to all other cases.

That such a law is expedient, there can be no doubt; whether it is necessary, is a subject of very serious consideration. To hear and determine without witnesses, or (which is the same thing) without a power to compel witnesses to appear and give evidence, is a very imperfect jurisdiction, and a most precarious and (as it may be) iniquitous method of deciding controversies.

Distinctions have been attempted between cases *civil* and *criminal*, and between *some* criminal cases and *others*, as between *felony* and crimes *inferior*. In cases of *felony*, it seems to be allowed, that a justice may compel witnesses to come before him, and to be examined upon oath, and to bind them over to appear and give testimony at the trial. And, in practice, if a justice should commit a felon to gaol, and tell the judge of assize, that there are witnesses who could prove the fact, but they are not willing to come; it is easy to conjecture what the judge would say to him.

But betwixt felonies and other misdemeanors, or betwixt criminal and civil causes, no positive law hath made any distinction. And even in this case of felony, there may be great difficulties; as for instance, it would be very hard, for a man who lives in Cornwall (as the case might be) to be bound over, on pain of being committed for his refusal, to give evidence at the assizes in Cumberland, against a man for stealing to the value of eighteen pence. — It may be said, publick justice requires it. Perhaps it may.

may. But if we pursue that argument thro' its consequences, it will take in all the other cases,

It may be proper therefore to inquire how this matter stands.

The office of justices of the peace is by act of parliament. Where an act gives them power to hear and determine an offence, with a special direction in what manner they shall proceed; they must pursue such direction in the execution of that power. Where it gives them a power, without any special direction for the manner of execution; this is not to say, they may do it by their own wills arbitrarily; nor yet is it intended that they shall not do it at all: But how then is it to be done? Even thus, as it seemeth; in the same manner of proceeding as in other like cases; that is, as the same offences would have been heard and determined in the courts of common law: namely, that they shall summon the party accused, shall send for witnesses, shall examine such witnesses (and no other) as are competent witnesses at the common law, shall give judgment, and award execution in like manner as those courts would have done.

The administering of an *oath* to witnesses by justices of the peace, is not a power given generally by any law; but in particular acts of parliament such power is specially expressed, as by saying that the justices shall convict an offender upon the oath of one or more credible witnesses [*which oath the said justices are hereby empowered to administer;*] which seemeth to imply, that where such power is not specially given, they shall not have it. But from the necessity of  
the



the thing, the contrary doctrine hath been allowed to prevail; that in all cases where the justices have power to hear and determine, they shall have power to use the ordinary means of information, and consequently may administer an oath. And this is in favour of the subject; that no man shall be convicted but upon the oath of his accusers: and it would be most pernicious if it were otherwise. And therefore such words in an act of parliament, being superfluous, had better be omitted.

It is curious to observe the rise and progress of this office of justices of the peace.

Anciently, the peace was preserved by *conservators*, chosen by the freeholders of the county. There were other conservators by virtue of their office, as the sheriff, coroner, and high and petty constables.

In the beginning of the reign of Edward the third, the appointment of conservators of the peace was transferred from the people to the crown; which was an important alteration in the constitution in favour of the crown. But these new conservators, at the first, had no more authority than the former conservators had at the common law, which was, as their name imports, to preserve the peace, to exert their own authority, and to command the help of others, to arrest and pacify all such who in their presence, and within their jurisdiction and limits, should go about to break the peace; but they had no power to take cognizance of breaches of the peace in their absence, nor had they power to punish any breach of the peace in their presence,  
but.

but only to restrain the offenders, and compel them to find sureties to keep the peace. And this is the very same authority, that to this day the petty constable hath power to exercise within his vill, the high constable within his hundred, and the sheriff within his county. And thus the justices are still conservators of the peace.

But before the end of that king's reign, they had another office super-added, which is of much greater authority, namely, that of *hearing and determining*. And in every succeeding king's reign, causes more and more, have been, and still continue to be brought under the jurisdiction of these justices.

In all the ancient statutes; where an offence is made cognizable before the justices, it is only expressed, that *the justices of the peace shall have power to hear and determine*.

In consequence of this, they proceeded in the same course as other jurisdictions then established; they received information of offences; they sent out their precepts to convene the parties; and it is observable, that there is not one act of parliament, which requires the *constable*, or any other to be subservient to them in executing their precepts. Nevertheless, as the constable was the head of the pledge, and was required by his office to have every man within his district forthcoming to stand to the law; the justices found this man the proper and necessary officer to execute their warrants, and the practice hath continued uncontrouled to this day. If the constable was a party, or otherwise insufficient, then the direction was to the high constable; and above that, especially from the general sessions, to the sheriff

sheriff (at which court the sheriff is particularly required to be attendant); if the sheriff was incompetent, as being interested, or the like, then to the coroners.

But here, it must be owned, there seems to have been an encroachment. They found the courts possessed, it is true, of a power to convene the parties; otherwise there could have been no hearing and determining. But this was not by apprehending the body of the person accused, and dragging him before the court; and indeed there was the less need of this, because the whole decennary was bound for his appearance. Neither did they lay hold of the persons of the witnesses. But the process was, as it is at this day in the other courts of record (and indeed is still preserved by the justices in their general or quarter sessions): Upon a charge against a man, delivered in by 12 men upon their oaths, called the grand jury, if it was for felony, the first process was a *capias*, or warrant to apprehend him; but if it was only for a misdemeanor, or offence against a penal statute, not being felony, the first process was only a *venire* or summons for the party to appear; if upon the summons he did not appear, and had lands whereby he might be distrained, the next process was a *distringas*, and so a distress infinite until he should appear: So tender hath the law always been, of a man's personal liberty. But if the sheriff's return to the *distringas* was, that he had nothing whereby he might be distrained; then the court issued a *capias* or warrant to apprehend him. And the process against witnesses was a *subpoena*, or summons to appear under a penalty.

In

In conformity to this, where an offence is cognizable before the justices out of sessions, in a summary way, and the trial by jury is dispensed with; it seems, that the subject ought at least to have the same advantages in other respects, as in a trial by jury: and consequently, there ought to be a charge against him upon oath; then he should be summoned to appear, and not apprehended immediately (unless in case of felony, for there the first process was a *capias*); and have all the other advantages allowed to him by the common law, where the same are not expressly taken away by statute. But as the method of *distress* is, indeed troublesome and endless; and proceeding against the witnesses, by indictment, or otherwise, for their contempt in not appearing, would be expensive, and certainly ineffectual for hearing and determining that particular cause; therefore the justices, as it seemeth, for the sake of convenience, have altered the course of proceeding in this respect, which only the law ought to have done.

Indeed, this same matter of trial by jury, seems to have gone off by degrees, and imperceptibly, in the times of ignorance and an unsettled constitution, without any express authority by any general law to abolish it. Crimes and misdemeanors in the sessions are still determined by jury. And out of sessions, for a long time, nothing else seems to have been thought of. Thus, where in the statute of 13 H. 4. c. 7. for riots, routs, and unlawful assemblies, it is enacted, that the justices (out of their general sessions) shall inquire thereof, and hear and determine *according to the law of the land*, this was understood to be

by a jury; and so was the practice; and the statute of 19 H. 7. c. 13. gives particular directions about the summoning of such jury. So in like manner, the statute of forcible entry, 8 H. 6. c. 9. requires that the justices shall inquire thereof *by the people of the county*, and *upon the finding of the jury* shall restore the party disseised to his possession.

The aforesaid summary method of proceeding, by apprehending persons immediately, charged only with misdemeanors, hath perplexed and set at variance two no less persons, than the lord chief justice Coke, and the lord chief justice Hale. My lord Coke says, (even in case of felony, 4 *Inst.* 177.) "I hold the resolution of the court, in 14 H. 8. to be law, that a justice of the peace cannot make a warrant to take a man for felony, unless he be indicted thereof, and that this must be done in open sessions. For the justice himself cannot arrest one for felony, unless he himself suspect him (as any other man may); and by the same reason, he cannot make warrant to another."

On the contrary, lord Hale says, generally, (1 H. H. 579. 2 H. H. 110.) that justices of the peace may issue their warrants, for apprehending persons charged with crimes within the cognizance of the sessions, and bind them over to appear at the sessions; and this, tho' the offender be not yet indicted: and that a justice, on oath made of a felony committed, and that the person making the said oath suspects such a man, and shews the cause of his suspicion, may issue his warrant to apprehend him; and so the constant practice hath obtained; and if the law were otherwise

otherwise (as lord Coke hath delivered it) malefactors would escape unexamined and undiscovered. And if there were no other reason (he says) to prove it than this, it were sufficient, namely, that the justice may commit him to gaol, that is brought before him for such suspicion, or may bail him, as appears by the statutes of 1 R. 3. c. 3. 3 H. 7. c. 3. and 1 & 2 P. & M. c. 10. and therefore *a fortiori* he may make a warrant to convene or bring them before him to examine the cause of the suspicion.

The one seems to speak of what was the strict law; the other, of the practice which had prevailed against it. And Mr serjeant Hawkins, by way of moderator between these two very learned lawyers (2 Haw. 84.) says, "It seems  
 "probable, that the practice of justices of the  
 "peace in relation to this matter is now become  
 "a law, and that any justice of the peace may  
 "justify the granting of a warrant for the arrest  
 "of any person upon strong grounds of suspi-  
 "cion for a felony or other misdemeanor, be-  
 "fore any indictment hath been found against  
 "him. Yet inasmuch as justices of the peace  
 "claim this power rather by connivance than  
 "any express warrant of law, and since the un-  
 "due execution of it may prove highly prejudi-  
 "cial to the reputation as well as liberty of the  
 "party; a justice of the peace cannot well be  
 "too tender in his proceedings of this kind, and  
 "seems to be punishable, not only at the suit  
 "of the king, but also of the party grieved, if  
 "he grant any such warrant groundlessly and  
 "maliciously, without such a probable cause,

“ as might induce a candid and impartial man,  
 “ to suspect the party to be guilty.”

Whilst the decennaries subsisted, there was no need of any previous apprehending of the offender. The whole decennary were his pledges or bail, and if they had him not forthcoming, were answerable for his offence, the punishment whereof was in those days pecuniary.

As to summoning *witnesses* particularly, by justices of the peace, or otherwise compelling them to appear; this seemeth almost intirely to rest upon what was the practice at common law in like cases: for very few acts of parliament have interfered, and those not general, but only in particular instances.

At first, the justices assigned by the king in every county were but few, as two, three, four, or six. And the causes brought under their cognizance, were to be heard by them in their sessions only. And therefore particular directions were given for holding their sessions regularly, four times in the year.

In process of time, power was given to justices out of sessions: as in case of riots, and forcible entries as abovementioned; being matters which required immediate relief, and would not admit of delay till the quarter sessions. But still a session was to be held specially for that purpose; which should proceed in the same manner as the general quarter sessions.

In several cases afterwards, the finding of a *grand jury* appears to have been dispensed with. As by the statute of 25 H. 8. c. 13. about how many sheep a man may keep, it is said, the justices may inquire as well by the oaths of 12 men,

as by *information of any of the king's subjects*. By the 5 & 6 Ed. 6. c. 14. about ingrossers; the justices in sessions may inquire by inquisition, presentment, bill, or information, or by examination of witnesses, by their discretion, and make process thereon, *as tho' the party were indicted before them by inquisition, or by verdict of 12 men or more*. By the 5 El. c. 13. a justice's own view of a highway out of repair, shall be of the same force, *as if found by the oath of 12 men*. — But still the party was to have the benefit of a traverse jury.

In some particular cases of small moment, power was given to one or more justices out of sessions, to hear and determine summarily; the cause being deemed not of so much importance as to call the country together about it. So in the statute of labourers, 2 H. 5. c. 4. the justices were to examine them upon their oaths, and might punish them *as tho' they were convicted by inquest*. And, generally, where power is given to the justices to convict upon the oath of one or more witnesses, or the like; this hath been generally understood to supersede the necessity of a jury. Especially, where these loose words [*by their discretion*] have been added. But this doth by no means confer any unlimited power; for no man's discretion may exceed the bounds of law.

In the mean time, never a syllable appears concerning the process against witnesses. The first instance that hath occurred, is so late as the reign of king Edward the sixth. In the statute of the 1 Ed. 6. c. 1. against speaking irreverently of the sacrament, it is ordered, that



the justices in sessions shall try the offenders by verdict of 12 men; and that previously, three justices may bind over the accusers, and *others whom the accusers shall declare to have knowledge of the offence* to appear before the justices at the day of trial. This seems to imply, that without this special designation, they had not power to bind over the witnesses; the course of the sessions being indged by process of subpoena.

Another instance, at a great distance again, is in the statute of 22 C. 2. c. 7. concerning the burning of houses, hay, corn, and the like; which enacts, that three justices may inquire by twelve men, and may *issue warrants to cause witnesses to appear and give evidence; and if they refuse on summons to appear, or to give evidence, the said justices shall commit them till they submit to be examined.*

Another instance is in the small tithe act, of the 7 & 8 W. c. 6. It is there said, that the justices shall adjudge the case, upon the proofs, evidences, and testimonies *produced before them*: which seems to imply, that they should not have power to compel witnesses, but only examine such as should voluntarily appear.

There is another instance in the same year, with respect to the excise laws. By the 12 C. 2. c. 23, 24. The commissioners of excise, justices of the peace, subcommissioners, and commissioners for appeals, are required to *summon the party accused*; but nothing is said about witnesses till the statute of the 7 & 8 W. c. 30, which enacts, that the commissioners and justices may *summon witnesses to appear before them, and give evidence*; and if any shall neglect or refuse, he

he shall forfeit 10l. — But for this there is a particular reason: for tho' the justices, as judges of record, may have power to summon witnesses; yet the commissioners of excise, without such special designation could not have such power. So in like manner, the commissioners of the land tax, deputy lieutenants of the militia, trustees of turnpike roads, and the like, not being judges of record, have not *eo nomine* the same powers that are incident to courts of record: and therefore where it is intended that they shall have such powers, the same must be given by special words. Therefore the clause in the militia act, that the deputy lieutenants shall have power to administer an oath; or in the land tax, window, or road acts, that the commissioners or trustees shall have power to compel the constables to execute their precepts, are not words of course, but are especially necessary in order to confer those powers. — Therefore this argument from the commissioners of excise doth not conclude to justices of the peace.

In the reign of queen Anne, there is an instance, in the statute of the 1 An. st. 2. c. 18. concerning abuses in the woollen and other manufactures; and another in the button act of the 8 An. c. 6. In both which acts, it is directed, that two justices may determine offences, and in order thereunto may *summon witnesses and examine them upon oath*; and so also may the sessions upon appeal against the order of the two justices. Which acts, so far as they prove any thing, conclude against the power of the sessions, as well as of the justices out of sessions.

In some few acts of late years, there are particular directions about summoning of witnesses, or compelling them to appear and give evidence: But are still only in special instances, and do not extend to the hundredth part of offences cognizable before justices of the peace. So that if the justices have not a general power, these instances will not help them, except in the particular cases they are applied to.

Therefore, so far as one may presume to conclude from the premisses, the most constitutional method of proceeding seemeth to be regularly thus: First; with respect to the person accused. Even in case of *felony*, the sessions originally had no power to issue a *capias* to apprehend a man, until a charge appeared against him upon the oath of 12 men; for that was the method by which, as a court, they came to the knowledge of the offence. Nevertheless, by the ancient common law, any person might upon his own knowledge or reasonable suspicion of felony, apprehend the person suspected, and carry him to gaol; and consequently, every justice of the peace, in his private capacity, might do the like. But the said justices having power given to them by the commission of the peace over felonies (amongst other things), it naturally followed, that what they might personally do before, they should now issue their warrants to the peace officers to execute, namely, to bring the persons before them, to be by them committed to gaol, or else to find sureties for their appearance. And this power, several acts of parliament do suppose, and encourage.

In case of misdemeanors *not being felony*; the first process was not a *capias*, but a summons. Therefore in such case, for the sessions to issue (I do not know what kind of process, called) a *bench warrant*, to apprehend a person indicted, seems not warranted by ancient practice. Much less, as it seemeth, could a private justice, out of sessions, issue a warrant to apprehend such person, charged with an offence which he had not power to hear and determine, and of which the said person was not yet indicted. Custom and long practice seem to have made the law in this particular, and not the law to have established the custom.

As to *witnesses*; the process, in all cases, was a subpoena or summons, and not a *capias* or warrant to apprehend them.

But what if a witness shall not appear? There is the difficulty. Lord Hale says, in case of felony, the justices who take the examination of the person accused, and the information of the witnesses, may at that time, or at any time after, and before the trial, bind over the witnesses to appear, and in case of their refusal either to come or to be bound over, may commit them for their contempt in such refusal; and this (he says) is virtually included within their commission, and by necessary consequence upon the statute of 1 & 2 P. & M. c. 13. (2 Hale's Hist. 282.)

In the case of being *bound over*, they shall forfeit their recognizance; but that makes nothing of satisfaction to the publick justice, or to the party injured.

If

If a witness has been *subpanaed* from the sessions; it seemeth that he may be indicted for his contempt in not appearing, and thereupon fined and imprisoned.

So also, if a justice, out of sessions, may lawfully issue a *summons*; the party disobeying may in like manner be indicted.

But still all this prevails nothing to the merits and justice of the cause; and therefore what is wanting is, a power to compel them to come.

So that, upon the whole, an act declaring or expressing what power the justices have, or shall have, in requiring the attendance of witnesses, in all matters depending before them, in or out of sessions, seems very desirable. A *summons*, in the first place, seemeth most reasonable; with a penalty for disobeying the summons. After that, a *warrant*. And a proper penalty, if being before the justice, they shall refuse to give evidence. And there should be a power to allow them *reasonable charges*, to be paid by the party who shall be found in the fault, if it is betwixt party and party, to be levied by distress; otherwise, out of the county rate, as it is now in some cases at the sessions with respect to felony.

At the same time it might be expressed, what power a justice out of sessions shall have, with respect to crimes only cognizable in sessions; in order to have all things ready for a hearing thereof. So also in matters cognizable before the justices out of sessions; what shall be the process against the person accused, that is, in what case a summons, and in what case a warrant: and the distinction seemeth to be, where a man's person is  
liable,

liable, and where it is not; if it is immediately liable, there to send a warrant; where it is not immediately liable, but only eventually, as for want of distress, or the like, then to send a warrant or summons as circumstances shall be; where the person is not at all liable, but only a pecuniary sum is required, as for servants wages, or the like, then to send a summons only, and not a warrant.

And tho' it is a good general rule, that persons *interested* ought not to be admitted as evidence in any cause, yet there seemeth a necessity for a clause in some act of parliament to relax the rigour of this maxim in some instances, especially where a whole parish is concerned, as in case of *appeals* of divers kinds. As for instance, on appeal against a poor rate, or land tax, it is almost impossible that there can be any witnesses of the value of the land, but what are interested. So on an appeal against an order of removal of a poor person; tho' there may be an agreement between the landlord and tenant that the landlord shall pay the taxes, yet the tenant is generally not allowed to give evidence with respect to the settlement, because he is *liable* to be taxed, for the agreement betwixt him and the landlord cannot alter the course of the law. Therefore it seemeth requisite that parishioners in such cases might be admitted to give evidence; especially as their credibility still would be left to the discretion of the court.

Excise.

# Excise.

The statutes relating to the duties of excise, are confused beyond imagination. They are about 130 in number; some of them extremely long, and treating of many different subjects at once. And there have been so many alterations, that I believe any man that shall try the experiment will find, that it is exceeding difficult, if not altogether impossible, precisely to determine, what are the real duties payable in many instances.

As for example, with regard to *spirituous liquors* made in Great Britain;

|  |     |
|--|-----|
| By the 12 C. 2. c. 23. For every gallon of strong water or aqua vitæ, made and sold in this kingdom, shall be paid a duty of — | 1 d |
|--|-----|

|   |     |
|---|-----|
| By the 12 C. 2. c. 24. For every gallon of strong water or aqua vitæ, an additional duty of — — — — — | 1 d |
|---|-----|

|  |     |
|--|-----|
| For every gallon of spirits made of wine or cyder imported — — — — — | 2 d |
|--|-----|

|  |     |
|--|-----|
| By the 22 & 23 C. 2. c. 5. For every gallon of strong water or aqua vitæ — — | 1 d |
|--|-----|

|  |     |
|--|-----|
| For every gallon of low wines of the first extraction made of imported wine or cyder or other materials imported — — — — | 2 d |
|--|-----|

|   |  |
|---|--|
| By the 2 W. sess. 2. c. 9. For every gallon of low wines or spirits of the first extraction, made from any foreign or imported materials, |  |
|---|--|

|  |     |
|--|-----|
| materials, or any mixture with foreign materials — — — — —   | 8d  |
| — from brewers wash or tilts, or from any sort of English materials, other than from drink brewed from malted corn, or from cyder or perry — — — — — | 12d |
| — made only from drink brewed of malted corn — — — — —   | 1d  |
| — from cyder or perry or any mixture therewith — — — — —   | 3d  |

By the 7 & 8 W. c. 30. For every gallon of low wines or spirits of the first extraction, made from any foreign or imported materials, or any mixture therewith. — — — — —

|  |    |
|--|----|
| — from brewers wash or tilts — — — — —       | 8d |
| — from drink made of malted corn — — — — —   | 1d |
| — from any other English materials — — — — — | 3d |

By the 10 & 11 W. c. 21. 4d a gallon, part of the duty of 8d imposed by the 7 & 8 W. c. 30. on spirits of the first extraction made from foreign or imported materials or any mixture therewith, shall cease.

And half of the duty of 3d a gallon imposed by the said act on spirits of the first extraction made from any English materials other than drink made of malted corn or from brewers wash or tilts, shall cease.

By the 12 & 13 W. c. 11. For every gallon of low wines or spirits of the first extraction, made from any foreign or imported materials or mixture therewith. — — — — —

|  |    |
|--|----|
| — from drink or wash made from any sort of malt or corn (other than brewers wash or tilts) — — — — — | 1d |
| — from brewers wash or tilts or mixture therewith — — — — —  | 1d |
| — from — — — — —   |    |



— from any other sort of English materials or mixture therewith — — — — — 1d

By the 4 An. c. 12. For every gallon of low wines or spirits of the first extraction, made from foreign or imported materials or mixture therewith — — — — — 2d

By the 8 An. c. 7. For every gallon of strong waters or aqua vitæ — — — — — 1d

For every gallon of spirits made of wine or cyder imported — — — — — 2d

By the 2 G. 2. c. 17. For every gallon of mixed or compounded waters or spirits called gin, geneva, juniper water, or any compositions of any other ingredients with brandy, low wines, or spirits — — — — — 4d

By the 6 G. 2. c. 17. The duties imposed by the 2 G. 2. c. 17. are repeated.

By the 16 G. 2. c. 8. For every gallon of low wines or spirits of the first extraction, made from any foreign or imported materials or mixture therewith — — — — — 6d

— from drink or wash made from any sort of malt or ~~corn~~ (other than brewers wash or tilts) — — — — — 1d

— from brewers wash or tilts or mixture therewith — — — — — 1d

— from any other sort of English materials or mixture therewith — — — — — 1d

For every gallon of spirits made from wine or cyder imported — — — — — 6d

For every gallon of strong waters or aqua vitæ made of any other materials — — — — — 3d

By the 24 G. 2. c. 40. For every gallon of low wines or spirits of the first extraction,

made

## Ch. 8. Other duties in the justices' law.

271

made from any sort of malt or corn, or from  
brewers wash or tilts or mixture therewith 1d  $\frac{1}{2}$

For every gallon of strong waters or aqua  
vitæ made of any the said materials — 4d  $\frac{1}{2}$

For every gallon of low wines or spirits of  
the first extraction, made from cyder or any  
sort of British materials, except those before  
mentioned, or any mixture therewith — 1d  $\frac{1}{2}$

For every gallon of spirits made from cyder  
or any sort of British materials, except those  
before mentioned — 3d  $\frac{1}{2}$

By the 33 G. 2. c. 9. For every gallon of  
low wines or spirits of the first extraction,  
made from drink or wash made from any  
sort of malt or corn, or from brewers wash  
or tilts, or mixture therewith — 5d

For every gallon of strong waters or aqua  
vitæ made of any the said materials — 1s 3d

For every gallon of low wines or spirits of  
the first extraction, made from any foreign  
or imported materials or mixture therewith 1s 3d

For every gallon of spirits made from any  
foreign or imported materials or mixture  
therewith — 8d

For every gallon of low wines or spirits  
of the first extraction, made from cyder, or  
any sort of British materials, except those  
before mentioned, or mixture therewith — 6d  $\frac{1}{2}$

For every gallon of spirits made from cyder  
or any sort of British materials, except those  
before mentioned — 1s 1d  $\frac{1}{2}$

By the 2 G. 3. c. 5. For every gallon of  
low wines or spirits of the first extraction,  
made from drink or wash made from any sort  
of malt or corn, or from brewers wash or tilts  
or mixture therewith — 1d

For

For every gallon of strong waters or aqua  
vitæ made of any the said materials — 3d.

For every gallon of low wines or spirits of  
the first extraction made from any foreign or  
imported materials, or mixture therewith 3d

For every gallon of spirits made from any  
foreign or imported materials, or mixture  
therewith — 2d

For every gallon of low wines or spirits of  
the first extraction, made from cyder or any  
sort of British materials (except those before  
mentioned) or mixture therewith — 1d

For every gallon of spirits made from cyder  
or any kind of British materials (except those  
before mentioned) — 2d

Now let any gager employed in the excise, or  
any other person whatsoever, take these clauses  
thus brought together from the several acts, and  
tell me plainly and clearly, what is the sum total  
of the duty payable in any one of these instances;  
or let two justices take them, and convict a per-  
son if they can, for not paying the proper duty.  
I would ask in particular, what is the duty pay-  
able for a gallon of spirits or strong waters,  
made, not from foreign materials, but from ma-  
terials mixed with foreign materials. I have  
noted above, which of the acts observe that dis-  
tinction, and which do not. And certainly, in  
a case so penal, it shall not be understood by  
innuendo or implication, that spirits made of  
materials, partly foreign, but of which the greater  
part may be home materials, are spirits made of  
foreign materials.

In short, what is wanted with respect to the revenue of excise, seems to be this : To detach all and every the particulars under the management of the commissioners of excise, from the numberless acts wherein they are interspersed : To set forth, in few words, what are the several duties to be paid ; and, in a regular order, the manner of charging, levying, and collecting them : And so, to methodize, and reduce all the excise laws (as might easily be done) into a small pocket volume ; whereby, both the gager, and the persons whose houses or other places are to be surveyed, might be enabled at one view to apprehend their whole duty.

One thing there is in those laws, which seemeth to be too severe. There is no appeal (except in some particular instances) from a conviction of the justices, to the quarter sessions. Which, considering the largeness of the penalties oftentimes, and the spiritedness of the prosecution, is not consonant to the equity and mildness of the English laws.

And in most of the cases wherein an appeal is given, there is no direction how the penalties shall be levied on the order being confirmed. The justices who made the order have filed it of course in the sessions, before the court could proceed upon it ; and they cannot take it back from off the file : neither is it expressed, that the sessions shall carry the order into execution by causing the penalties to be levied.

## Game.

There is great reason to revise the game laws, and to reduce them into some order and compass. One of the principal acts, viz. the 5 An. c. 14. about carriers and others having game in their possession, and inflicting the penalty of 5*l*. on persons killing game not being qualified, is neither grammar nor common sense, and is a disgrace to the statute book. If an action were brought against a justice, for convicting such carrier or other person upon that act, it might be difficult to support his jurisdiction; unless it were allowed, in cases penal, to construe an act by equity, into a sense which *legally* it will not bear; and to guess at its meaning, when it self expresses no meaning; in order to deprive the subject of his goods, or of his liberty.

In the case of *deer stealing*, where the penalties are very large, an appeal to the sessions, where the cause might be reheard upon the merits, seemeth much more desirable, than to remove the conviction into a superior court, there only to try, whether it is drawn up strictly in point of form.

And it seems high time to repeal the very severe laws against destroying of *hawks*; for the current now takes a contrary course, and rewards rather than punishments ought to be appointed; for these are now the greatest poachers. In like manner, the laws against destroying *herons*, and their eggs, and the eggs of other *wild fowl*, ought to be mitigated at least; for as the law now stands,

stands, it is imprisonment for a year to take or destroy the said eggs from or in the nest, or other place where they shall chance to be laid. All which was intended to preserve and encourage the breed of these fowl for the diversion of hawking. — And there is a further additional penalty of one penny for each egg; half to the king, and half to him that will sue for the same. Which in these our days, considering the usual expence of a law suit, seemeth somewhat ridiculous.

The laws to prevent *salmon* (one of the most beneficial commodities to this kingdom) from being taken or hindred in passing up to spawn, are partial; extending only to certain rivers by name, and particularly not to any of the rivers in the most northern countries, where abundance of salmon spawn is miserably destroyed. — Nor are the laws in general for regulation of the fisheries, adequate to the importance of the object.

## Hawkers and pedlars.

There seems to be a difficulty in ascertaining the duties to be paid by hawkers and pedlars. — By the 8 & 9 W. c. 25. it is enacted as follows: viz. "From June the 24th, 1697, to June the 25th, 1698, shall be paid by every hawker, pedlar, petty chapman, or any other trading person, going from town to town, or to other mens houses, and travelling either on foot, or with horse, horses, or otherwise, carrying to sell, or exposing to sale, any goods, wares, or mer-

"chandizes, a duty of 4l; and every person so  
 "travelling with a horse, ass, or mule, or other  
 "beast, bearing or drawing burden, shall pay  
 "the sum of 4l, from the said 24th day of June,  
 "1697, to the 25th day of June, 1698; for each  
 "horse, ass, or mule, or other beast, bearing or  
 "drawing burden, be or she shall so travel with,  
 "over and above the said first mentioned duty  
 "of 4l. — And licences shall be made out to  
 "every such hawker, pedlar, petty chapman,  
 "or other trading person, for him or her self,  
 "or for him or her self with *one or more horses,*  
 "*asses, mules, or other beasts, which be or she*  
 "*shall travel with, as the case shall require.*"

This act expired at the end of the year. But  
 the same is re-enacted (*mutatis mutandis*) by the  
 9 & 10 W. c. 27. Only in this latter act, there  
 seems to have been a mistake. Hereby it is en-  
 acted, that "from June the 24th, 1698, to  
 "June the 24th, 1701," (*viz.* for three years,  
 and the same duties afterwards were made per-  
 petual) "shall be paid by every hawker, pedlar,  
 "petty chapman, or any other trading person,  
 "going from town to town, or to other mens  
 "houses, and travelling either on foot, or with  
 "horse, horses, or otherwise, carrying to sell, or  
 "exposing to sale; any goods, wares, or mer-  
 "chandizes, a duty of 4l *for each year*; and  
 "that every person for travelling with a horse,  
 "ass, or mule, or other beast, bearing or draw-  
 "ing burden, shall pay the sum of 4l *for each*  
 "*year be or she shall so travel with,* over and  
 "above the said first mentioned duty of 4l." —  
 The sense here is manifestly imperfect; and from  
 the tenor of the foregoing act, it seemeth that  
 the

the words in the latter part of the sentence ought to run thus: viz. that "every person so travelling with a horse, ass, or mule, or other beast, bearing or drawing burden, shall pay the sum of 4*l*. for each year [for each horse, ass, or mule, or other beast, bearing or drawing burden] *he or she shall so travel with.*"—A duty of 4*l*. for each horse, ass, mule, or other beast, bearing or drawing burden, seems to be intended, but is ungrammatically expressed; the words within the brackets having been dropped (as it seemeth) in the transcript. For so the act goes on, as did the former act, making a difference between travelling with one horse, ass, mule, or beast of burden, and with more; expressing, that "licences shall be made out to every such hawker, pedlar, petty chapman, or other trading person, for him or her self, or for him or her self with *one or more* horses, asses, mules, or other beasts, which he or she shall travel with, *as the case shall require.*"

## Highways.

Something hath been said upon this head already.—In a discourse published in the year 1763, by John Hawkins, esquire, one of his majesty's justices of the peace for the county of Middlesex, intitled, "Observations on the state of the highways, and on the laws for amending and keeping them in repair," there are several things worthy of observation. Particularly, That the justices in their special sessions shall appoint, for every parish or other like



## Other defects in the justices' law. Ch. 8.

district, an *assistant surveyor*, with a salary, to direct and order the statute labour: That *ten* days shall be appointed yearly, for the amendment of the highways; on which days, the several persons liable shall attend in the following proportions: *viz.* Persons occupying two ploughlands, to send their draughts on all the said ten days; if but one ploughland, then the said draughts for five days only; and those who are not to send draughts, to be charged as follows,

| Persons occupying 40l a year, | days |
|-------------------------------|------|
| to send a labourer            | 10   |
| 35l a year                    | 9    |
| 30l                           | 8    |
| 25l                           | 7    |
| 20l                           | 6    |
| 15l                           | 5    |
| 12l                           | 4    |
| 9l                            | 3    |
| 6l                            | 2    |
| 3l                            | 1    |

And every other inhabitant, cottager, and labourer, one day.

Persons keeping coaches, chariots, and the like, to be charged annual sums, over and above their statute labour, inasmuch as they have the greatest benefit of good roads; but seem not to be included, as such, within the statute of *Philip and Mary*, because there were but few coaches or other such carriages at that time.

— As to the *quantity of labour* to be furnished by each on the several days of working, it seemeth reasonable that every man should go with the strength he has. If he keeps a draught, to go with that; if a single horse and cart, the like;

like; and with able-bodied men, in proportion to the number of such persons that he keeps.

As to what hath been proposed, about *abolishing the statute labour* altogether, and laying an assessment in lieu thereof; it must be owned, this is more likely to do the business, nor can the people reasonably object, since they have shewn that they are not able or not willing to make the road themselves. But then the disposal of the money (as it seemeth) ought not to be in their power; for if it is, very probably the matter will be left just where it was; for they will either not lay it out, or lay it out to no purpose. But there must be a person, in like manner as the surveyors upon turnpike roads, to set out the road, and let the same publickly to those who will take it lowest at so much a rood (for instance) and to limit the undertakers both, as to the breadth, thickness or depth, goodness of the materials, and every other particular, expressly and minutely; otherwise the work will be slubbered over and sleighted, and the roads will be bad still. — And it would be less invidious, if the assessment should be laid upon the landlord, and not upon the rack rent tenants; for then it would more certainly be raised, and employed for the purpose intended; and in the event it comes much to the same thing, for it must fall upon the landlord at last, since his estate will let for so much the less as that charge shall amount to.

There seems to be a defect in the law, with regard to the appointment of surveyors: The constables, churchwardens, surveyors of the highways, and other inhabitants, are to meet yearly on the 26th of December, unless it happen to be

sunday, and then on the 27th, and make a list of the names of a competent number of persons, qualified to serve the office of surveyor; out of which list, the justices are to chuse such persons as they think requisite. The law makes no provision for their appointment, if such list is not returned. There is indeed a penalty on the constables, churchwardens, and surveyors, for not returning such list; but that does not remedy the matter, so as to cause surveyors for that year to be appointed.

### Jurors.

There is a difficulty in returning lists of jurors, where a freeholder lives in one constablewick, and his freehold lies in another constablewick perhaps in a remote part of the county. It seemeth by the several statutes, that he can only be returned in the constablewick where he *inhabits*; and if his freehold lies elsewhere, the constable possibly may leave him out of his list, as not knowing of such freehold; being directed by the statute, for his information, to the poor or land tax bills of his own district. It seemeth more apposite, that the constable where the freehold lies, should return the name of the owner, and his place of abode.

And as *copyhold* tenants are made liable to serve; there is the same reason for taking in the owners of lands holden by other *customary* tenure.

## Justices.

It frequently happens, that where a thing is appointed to be done by two justices, as (for instance) the making an order of removal of a poor person, great inconvenience arises, both to the parties, and to the justices, where the justices (as is often the case) live at a great distance from each other, in attending the justices to know when it will be agreeable to them to meet (which perhaps may be never); or if a meeting is appointed, accidents will happen of sickness, weather, business, or the like, which will disappoint that meeting; and this, it is to be feared, causes the justices sometimes, absurdly and ridiculously enough, and with great danger to themselves of being called to an account for it in a superior court, to adjudge the settlement when they are twenty miles asunder, by one of them taking the examination, and certifying to the other, who sets his hand to the order of removal without further ceremony. In these, and many other such like cases, as in making orders of bastardy, levying highway penalties, levying the poor rates, — it might be reasonable to give power to one justice to proceed by himself alone (always reserving an appeal to the general or quarter sessions); or rather this will direct to the usefulness and convenience of the aforesaid monthly sessions.

Land

**Land-tax.**

This title indeed does not properly belong to the justices of the peace, as such; but as all or most of the justices are generally commissioners of the land tax, this may be considered amongst the other matters cognizable by the justices of the peace:—By the first land tax act, in the 3 & 4 W. & M. the commissioners at their first meeting were to issue precepts for persons to come before them at a second meeting, in order to receive instructions in what manner to lay the assessment; which assessment the said persons were to bring in at the third meeting of the commissioners, to be allowed and signed by them; and at the fourth meeting, appeals against the assessment were to be heard and determined. And all this was very proper and necessary at the first laying on of such a tax. But after 70 years practice, it seemeth that one of these meetings may now be very well spared; that is, that the commissioners, at their first meeting, shall be required to issue precepts for the last collectors to be assessors, and bring in their assessments made in like manner as in the former year, to the commissioners at their second meeting to be signed. And so at the third meeting appeals may be determined.

London

**London.**

There are many acts of parliament, relating particularly to the places within the bills of mortality, which compass includes a very considerable part of the kingdom. It is a thing much to be desired, that some person would undertake to collect and digest all these acts; and from these again might be selected those especially which relate to the office of a justice of the peace; which being large, and not of much consequence to the rest of the kingdom, are not proper to be fully treated of in books concerning the office of justices of the peace in general.

**1000.**

In what is laid down in the foregoing discourse concerning *settlements*, it was not thought fit to descend to the *minutiae* or particularities thereof; but only to draw the outlines, as it were, of a reformation thereof; and those lesser matters would fall in of course. — One of which is, that at present there is not the same measure of justice between the two kingdoms of England and Scotland. If an Englishman goes into Scotland, he gains no settlement there; if a Scotchman comes into England, it seems to be agreed that he may gain a settlement here; and, coming without a certificate, he may gain a settlement sooner than an Englishman can. And he cannot be removed into Scotland, on his being likely

ly to become chargeable, nor until he shall be actually chargeable. But if the doctrine of certificates were abolished, as is above proposed, and every person allowed to continue in any place (as he may do now with a certificate) until he shall be compelled to ask relief, all would be put upon the same footing in that respect, and the benefit of a certificate would be obtained without its disadvantages. — There is another great inconvenience in the borders of the two kingdoms, that if a man commits an offence, as in the case of getting a bastard child; or a breach of the peace, and the like, and flies or escapes into the other kingdom, he cannot be there apprehended.

In like manner, as the laws now stand, a determination of that much litigated point, what shall be such a hiring and service as to gain a settlement, would be very expedient: But if the settlement were reduced to its original standard, as is above proposed; this, and all other such like artificial refinements, would fall of course.

There is a difficulty with regard to an order for *relief* of a poor person, which cannot be better apprehended than from the following account of a real fact, by a gentleman acting in the commission of the peace: — “ A very poor man,  
 “ who was in an ill state of health, and had a  
 “ wife and three children, came to me for re-  
 “ lief, which he said he had applied to the over-  
 “ seer of the poor of his parish for, and had  
 “ been refused. This he farther proved on the  
 “ oath of a credible witness. In consequence  
 “ of this, I sent a summons to the overseer of  
 “ the poor to appear to shew cause why relief  
 “ should

“ should not be allowed him. The overseer at-  
“ tended, and said, the parish was of opinion,  
“ that the man's settlement was not in their pa-  
“ rish. As I suspected a disposition in the pa-  
“ rish not to relieve the man, I proposed to the  
“ overseer, that his examination should be taken  
“ as to his settlement, as the means of saving  
“ further trouble about him. This was accord-  
“ ingly done, and the man's settlement was in-  
“ disputably in that parish. On this I ordered  
“ the overseer to allow him five shillings, which  
“ he promised me he would pay to him as soon  
“ as he got home. The next day the poor man  
“ came again, and said, the overseer by the ad-  
“ vice of the parishioners would not pay him  
“ the five shillings, and this he proved by a cre-  
“ dible witness. On this I sent a warrant, di-  
“ rected to the constable of that liberty, to  
“ bring the overseer before me. The constable  
“ sent it back to me, and said the overseer was  
“ ill and could not come. I sent a servant to  
“ inquire into the truth of this; and it appear-  
“ ed that the overseer was that very day in good  
“ health, and abroad in his farm at work. On  
“ this I directed a warrant to the high constable,  
“ to bring both overseer and constable before  
“ me, to answer for their contempt, and to be-  
“ come bound with sufficient sureties for their  
“ appearance to answer to such bills of indict-  
“ ment as should be exhibited against them for  
“ the same, or otherwise that I would commit  
“ them. The high constable brought them.  
“ When they came, they allowed the man to  
“ be a real object of relief, that the relief I  
“ ordered was moderate, that they believed the  
“ man's



“man's settlement was with them; but said, they and the parish were determined to pay no relief. In the mean time, during this tedious process, the poor man was starving.”— And after observing upon the disagreeableness, and difficulty, and insufficiency for the relief of the poor person, of bringing such offenders to justice; he proposes, first, that in case of the inability of a churchwarden or overseer to attend (for in many places one person serves both the offices of churchwarden and overseer, in other places there is only an overseer and no churchwarden) the justices should have power to summon any substantial householder, and in such case the overseer to be liable as if he himself had personally appeared: Secondly, That in case of disobedience to the order by the churchwarden or overseer, the justice should have power (which certainly is most reasonable) to levy by distress the sum ordered, and as much more by way of punishment as the justice shall think reasonable not exceeding 10 s, to be paid to such poor person, over and above all charges attending the distress.—“This (he justly concludes) would be an effectual way of remedying a disagreeable evil; and make the magistrate's office easier to him, *without adding to his power*”.

There is a further inconvenience to a poor person, that a justice cannot order relief to him, until oath shall be made before the justice, that such poor person hath applied to a vestry or other publick meeting, or to two of the overseers, and been by them refused. A vestry or other publick meeting may not be held for a long time; two  
over-

overseers (living at a distance) may be difficult to be found, or in the fulness of their importance may refuse to the poor person admittance to their presence; and in some townships there is but one overseer, and in that case there must unavoidably be a defect of justice. The remedy might be, that application to one overseer should be sufficient; or at his dwelling house, if he himself shall not be to be found.

In like manner, if an overseer should refuse to obey an order of maintenance made by the *sessions*; power should be given to a justice out of sessions, on sight of the order, and proof of the contempt, to levy the sum ordered by distress.

In case of removing poor persons to the work-house, a power (as it seemeth) should be given to the overseers, to take with them their cloaths, bedding, tools of their trade, or other effects: These they often make away to their relations. So when they die, it seemeth reasonable, that the overseers should have power to dispose of their cloaths, and other effects, in aid of the parish for their funeral and other expences.

By the 43 El. the justices have power to send to the house of correction such as shall not employ themselves to work, being appointed thereunto by the said justices: But this doth not seem to extend to a man's wife and children, whilst they are under his power. Therefore a clause might be proper, giving authority to the justices to send them likewise to the house of correction, where they shall be found to be wilfully in fault.

**Process.**

### Process.

It seemeth, for the executing a *summons*, where the person to be summoned happens to be, or is designedly, out of the way, that a copy thereof left at his dwelling house, or other usual place of abode, or with his wife, child, or servant, should be enacted to be effectual, as if personally served upon himself.

### Servants.

There are abundance of statutes regulating matters, between masters and their workmen in several kinds of manufacture, not differing so much in substance, or in their several circumstances, but that they might easily be reduced into one general act.

And the statute of the 20 G. 2. c. 29. is extremely inconvenient for the recovery of the wages of servants or labourers, by allowing the space of one and twenty days after the order for payment thereof, before distress can be made. Which gives the master time to make away with his effects; and particularly in the case of harvest workers, and artificers having finished their work and removing to a distant part, — to be obliged to wait three weeks, and possibly not receive their wages at last, is troublesome and vexatious; and makes many poor labourers go home without their wages, or accept an iniquitous composition. Therefore the distress ought to

to be immediate, upon refusal to pay according to the order.

And by the said act, the punishment of a servant misbehaving, is to be either by commitment to the house of correction, or otherwise by abating part of his wages, or by discharging him. It seemeth that it ought to be by all or any of these ways; for one of them singly is often not adequate to the offence.

### Soldiers.

There have been disputes, especially whilst the militia were on foot, and under the same regulations as the other forces, how far a soldier may be apprehended by warrant of a justice of the peace, on a charge against him for having begotten a child born or likely to be born a *bastard*; and be committed to gaol for want of sureties to indemnify the parish, or to abide the order of maintenance by the justices. This depends on the expression in the acts of parliament, that they shall not be taken out of the service but for some *criminal* matter. The question is, what the law calls *criminal*; and that is, in opposition to *civil* matters. *Criminal* seems to intend an offence of a *publick* nature, for which a man may be prosecuted at the suit of the king, and on conviction fined or otherwise subjected to corporal punishment; or if it is on a warrant for the peace or good behaviour, then he may be committed summarily, to prison until he shall find sureties. *Civil*, implies an offence of a *private* nature, be-

twixt party and party, and not where the king is party.

It hath been the practice, it must be owned, ever since *Dalton's* time, to bind the reputed father of a bastard child to the good behaviour; and if it is lawful to do that, it is lawful to take him out of the service, and commit him to gaol if he shall not find sureties. But the legality of that practice may be questioned.

Before the acts of parliament, giving cognizance to justices of the peace in cases of bastardy, this was solely an ecclesiastical offence, punishable in the spiritual court. The acts giving jurisdiction therein to justices of the peace, are for the indemnification of the parish, with regard to the maintenance of the bastard child; on a suit merely civil, between the parish officers on the one hand, and the reputed father on the other: and to bind a man to the peace or good behaviour, on complaint of the parish officers, on a charge only of such offence, of which perhaps afterwards he may be acquitted, or to indict, fine, and imprison him for the said offence at the suit of the king, if he shall be adjudged to be the reputed father, is a power given by no statute; and therefore the punishment thereof as a crime properly belongs still to the spiritual court.—But as this matter is allowed to admit of great doubt, an explanation thereof may be of use.

The penalty on the constables, for not providing *carriages*, is very incompetent; namely, 40s (at most) to the poor of their own parish: which, in effect, is no penalty at all, being only a relief of their neighbours in the poor tax, who will be ready enough to contribute, if thereby they

they may be spared in times of difficulty or danger; and the publick service will be wholly frustrated. If there were no penalty at all appointed, then the party offending might be indicted, fined, and imprisoned, at the discretion of the court, for his contempt.

In the clause about *billeting*, it is directed, that the constables shall billet the soldiers (amongst other places) in the houses of persons selling brandy or strong waters by retail; except the houses of distillers and shopkeepers, whose principal dealings shall be more in other goods than in brandy or strong waters: which exception implies, that shopkeepers by licence may deal in brandy or strong waters. But by two acts of parliament (viz. 16 G. 2. c. 8. and 17 G. 2. c. 17.) no licence shall be granted to any person to sell by retail any spirituous liquors, except to such persons only who keep taverns, victualling houses, inns, coffee-houses, or ale-houses: and if any person keeping such house shall be licensed, and afterwards, during the continuance of such licence, shall exercise the trade of a distiller, grocer, or chandler, or keep a brandy shop for sale of any spirituous liquors, the said licence shall be void. — Therefore, that the laws may be consistent, the above exception in the clause about billeting ought to be omitted; as proceeding upon a supposition which has no foundation.

There is no direction, in the mutiny acts, how far the soldiers shall be obedient to the commands of the *civil magistrate*, in quelling of riots, and the like. Therefore the power exercised over

them in that respect, is not as they are soldiers, but as subjects, in common with the rest of the people, from that duty which every man owes to the publick, in obedience to the orders of those, whose office it is to preserve the peace. And it is sufficient that the laws regulating them as soldiers do not exempt them from this common charge. Nevertheless, as the commands of a superior officer, and of the civil magistrate, may interfere; perhaps an explanation in this point, defining and clearly expressing their office and duty in this respect, might afford satisfaction, and prevent inconvenience.

There is another instance, which indeed is not owing to a defect of the law, but to an error in practice, of justices of the peace taking upon them to prolong the soldiers *furloughs*. An officer grants to one of his men leave of absence (for instance) for a fortnight. The soldier goes to a justice of the peace, and he perhaps gives him leave to be absent for a fortnight longer. But how does the justice know, that the soldier's service will not be wanted before that time? Or who constituted him a judge in those matters? Some other of the absurd practices above noted, of justices of the peace, have been founded on what was once the law, only the practice hath not kept pace with the law; but this (so far as I have been able to discover) is founded on no law that ever existed.

## Weights and measures.

There have been more acts of parliament for the uniformity of weights and measures, than about any other particular. Nothing is more universally desired. Nothing would tend more to the ease and convenience of a trading nation. And nothing is worse regulated in practice. The parliament have taken laudable pains for two or three years past, to establish these matters on a proper foundation. And it is to be hoped, they will persevere. Difficulties there are, particularly, that a new law in this kind would overturn the whole practice of the customs and excise. Therefore an act for that purpose ought to be made to take effect at a future day, as at the distance of a year or two years, that so the officers might be sufficiently prepared. But the greatest difficulty will be, as in other like cases, to carry the law, when made, into general practice. We will suppose the justices of the peace constituted the judges in the case of offences. There will still want some persons, betwixt the justices and the offenders, whose business it shall be to examine the weights and measures, and procure information; whether the officers of excise should be appointed to this duty; or, if they should be objected to, surveyors of weights and measures might be specially appointed; or this matter might be brought within the business of the special sessions, as is above proposed for the poor, the highways, and the rest.—What hath been proposed, that those justices who do not  
chuse



chuse to act under the commission at large, may yet act in this instance, without suing out a *dedimus*, probably will not answer the purpose, because (as it seemeth) few such will be to be found.

### Windows.

In like manner as was observed before of the land tax, one meeting here might be spared, by the commissioners issuing out their precepts at once, for the last collectors to be assessors, and bring in their assessments at a second meeting; and so to have only one other meeting for the appeal. And these meetings (by the way) might very well be made to comport with the business still of the monthly sessions.

If one might presume to observe a little upon the equity of this tax, it seemeth somewhat hard, that a person of small fortune, perhaps with a large family, should pay as much for his *house* yearly, as the richest man in the kingdom. And as to *windows* or lights, it is shocking to travel thro' the country, and behold every where the inhabitants in a great measure deprived of light. They build their houses, not according to any model of Roman or Grecian architecture; but act-of-parliament houses, with so much light only as they think the law allows them. For they are apt to persuade themselves, that these duties are intended as a tax upon day-light. And they may be the rather prompted perhaps to this imagination, from the practice of their superiors; who seem to be very far gone in the notion of turning day  
into

into night. Policy, probably, would suggest, that to begin to reckon at one window, and so on to ten inclusive, at 6d each, (and advancing, above that number, in the proportion as it is now,) would afford the people more light, and raise the government more money. For then there would not be so much striving to reduce the windows to the number of seven; and there is no proportion between eight windows being charged eight shillings, and seven windows charged nothing. And reducing the number further would not advance the revenue; for it would only cause more windows still to be stopped up, until there should be no light but from the doors and chimnies.

THERE are many other particulars, no doubt, relating to, or connected with the office of a justice of the peace, that may want regulation; which every man's observation will suggest, that hath acted for any considerable time under the commission of the peace. And if a general bill should be brought into parliament, to rectify such as shall seem most to require it; others would fall in of course, as almost all the members of both houses are justices of the peace, and many of them have honoured the commission with their personal service. —

